

Monday, 24 February 2025

[Open session]

[The accused entered the courtroom]

--- Upon commencing at 9.00 a.m.

PRESIDING JUDGE SMITH: Mr. Court Officer, please call the case.

THE COURT OFFICER: Good morning, Your Honours. This is the file number KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi. Thank you, Your Honours.

PRESIDING JUDGE SMITH: I note that all the accused are present in court today.

Before the witness is brought in, the Panel will issue two oral orders.

First, the Panel will issue orders in relation to Rule 153 decision in F02779.

The Panel recalls that on 13 December 2024, the Prosecution requested to assign an exhibit number to 061011-TR-AT Part 2 RED2, which is Part 2 of the Albanian transcript of W04394's SPO interview admitted by the Panel pursuant to 153 in decision F02779.

The Prosecution submits that the transcript has not yet been assigned an exhibit number due to an administrative error in the Rule 153 motion.

The Panel observes that W04394's SPO interview, including any translations thereof, was admitted into evidence pursuant to Rule 153. I am referring to F02779, paragraph 83(c).

1 The Prosecution proposes to assign 061011-TR-AT Part 1 RED2
2 exhibit number P01930.1-AT and 061011-TR-AT Part 2 RED2
3 exhibit number P01930.2-AT.

4 Any objections from the Defence? None is heard.

5 The Panel approves the SPO request and instructs the Registry to
6 assign item 061011-TR-AT Part 1 RED2 exhibit number P01930.1-AT; and
7 item 061011-TR-AT Part 2 RED2 exhibit number P1930.2-AT.

8 This concludes the first oral order.

9 There is another housekeeping matter that the Panel would like
10 to address in relation to decision F02779.

11 Mr. Court Officer, please bring us into private session

12 [Private session]

13 [Private session text removed]

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1 [Private session text removed]

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4 [Open session]

5 THE COURT OFFICER: Your Honours, we're in public session.
6 Thank you.

7 PRESIDING JUDGE SMITH: We will now start hearing the evidence
8 of Prosecution Witness W04745.

9 Madam Court Usher, please bring the witness in.

10 MS. IODICE: Your Honour, while the witness is being brought in,
11 may I raise the issue that was sent by e-mail at the end of last week
12 regarding W02677, if there is any indication regarding whether the
13 Panel accepts the proposal from the Defence that we agreed to.

14 PRESIDING JUDGE SMITH: I'll get back to you on that. Thank
15 you.

16 [The witness entered court]

17 PRESIDING JUDGE SMITH: Good morning, Witness.

18 THE WITNESS: [Interpretation] Good morning to you. Greetings to
19 you.

20 PRESIDING JUDGE SMITH: Can you hear me all right?

21 THE WITNESS: [Interpretation] Yes, I can.

22 PRESIDING JUDGE SMITH: Good. Good. Witness, we are now ready
23 to start your testimony. The usher will provide you with the text of
24 the solemn declaration that you are asked to take pursuant to our
25 Rule 141(2). So look at the document and then read it aloud.

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1 THE WITNESS: [Interpretation] First of all, I would like, with
2 your permission, to greet everyone present here.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 Just do as you're told and read that document aloud.

5 THE WITNESS: [Interpretation] Conscious of the significance of
6 my testimony and my legal responsibility, I solemnly declare that I
7 will tell the truth, the whole truth, and nothing but the truth, and
8 that I shall not withhold anything which has come to my knowledge. I
9 swear in the name of my God and your laws, if they exist.

10 WITNESS: ISMET TARA

11 [The witness answered through interpreter]

12 PRESIDING JUDGE SMITH: Please be seated, Witness. Thank you.

13 Witness, I know that you had a request to make a statement, and
14 we don't have any problem with you doing that, but we want you to do
15 it at the end of your testimony so that it doesn't interfere with
16 your testimony in any way. So we will go through your testimony and
17 the cross-examination, and when everyone is finished, if you still
18 want to make a statement, we will give you an opportunity to do that.
19 Do you understand?

20 THE WITNESS: [Interpretation] I understand. But to the first
21 question that will be put by the Prosecutor, I will -- I would like
22 to express my concerns in relation to this.

23 PRESIDING JUDGE SMITH: Just a second. You're here to testify
24 by answering questions only. I've told you, at the end of your
25 testimony if you want to make a statement, we will allow you to do

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1 that. But during your direct examination and cross-examination, you
2 are here to just answer the questions that are asked. We don't want
3 you to make statements or questions about what's being asked of you.
4 Leave that to the attorneys. All right?

5 THE WITNESS: [Interpretation] I want to express my concerns
6 because I have noticed and found irregularities regarding this Court.
7 Then I will talk.

8 PRESIDING JUDGE SMITH: Please. I've turned off your microphone
9 because you're not responding. I've turned off your microphone
10 because you were not responding. It's back on now.

11 I'm going to start again. We're going to have questions asked
12 by the Prosecution and by the Defence, and then when we're finished
13 you may raise all the questions you want. Do you understand? Those
14 are the Court rules.

15 THE WITNESS: [Interpretation] Thank you. Understood.

16 PRESIDING JUDGE SMITH: Now, Witness, today we will start your
17 testimony, which is expected to last approximately three days. As
18 you may know, the Prosecution will ask you questions first.
19 Thereafter, the Defence has the right to ask questions, and members
20 of the Panel might also have questions for you.

21 The Prosecution estimate for your examination is six hours. The
22 Defence estimates that it will need approximately eight and a half
23 hours. As regards each estimate, we hope that counsel will be
24 judicious in the use of their time, and that the Panel may also allow
25 redirect examination if conditions for it are met.

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1 Witness, please try to answer the questions clearly, with short
2 sentences. If you don't understand a question, feel free to ask
3 counsel to repeat the question or tell them you don't understand and
4 they will clarify. Also, please try to indicate the basis of your
5 knowledge of facts and circumstances that you will be asked about.

6 In the event you are asked by the SPO to attest to some
7 corrections made regarding any statement you made, you are reminded
8 to confirm on the record that the written statement, as corrected by
9 any list of corrections, accurately reflects your declaration.

10 Please also speak into the microphone and wait five seconds
11 before answering a question, and speak at a slow pace for the
12 interpreters to catch up.

13 While you are giving evidence in this Court, you are not allowed
14 to discuss with anyone the content of your testimony outside of the
15 courtroom. If any person asks you questions outside of this Court
16 about your testimony, please let us know. Please stop talking if I
17 ask you to do so and also stop talking if you see me raise my hand.
18 These indications mean that I need to give you an instruction.

19 If you feel the need to take a break, let us know, raise your
20 hand if you need to do that, and we will make an accommodation.

21 We begin first with the questions by the Prosecution. They are
22 seated to your left. Please give them your attention and answer the
23 questions -- I've explained to you how this is going to happen, sir.
24 Just listen to the questions and answer them.

25 THE WITNESS: [Interpretation] If you could turn on the volume a

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1 little bit more because I --

2 PRESIDING JUDGE SMITH: The Court Usher will help you with that.

3 Can you hear better now?

4 THE WITNESS: [Interpretation] Yes.

5 PRESIDING JUDGE SMITH: All right.

6 Madam Prosecutor, you have the floor.

7 MS. IODICE: Thank you, Your Honour.

8 Examination by Ms. Iodice:

9 Q. And good morning, Witness.

10 A. Good morning.

11 Q. My name is Vega Iodice, and I will be asking you questions on
12 behalf of the SPO.

13 First of all, could you please state your name and surname for
14 the record.

15 A. Ismet Tara.

16 Q. And what is your date of birth?

17 A. 8 June 1963.

18 Q. And what is your country of nationality?

19 A. I am Kosovan.

20 Q. What is your profession?

21 A. Catering.

22 Q. Thank you. Were you ever known by a nickname? Do you have a
23 nickname?

24 A. Can you please be more specific? Which period of time?

25 Q. During the war did you have a nickname?

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1 A. Yes.

2 Q. What was it?

3 A. Hoxha.

4 Q. Thank you. And did you ever receive military training?

5 A. Clarify your question again.

6 Q. Did you ever receive any form of military training? Did you
7 perform military service or did you ever receive military training?

8 A. I was a soldier in former Yugoslavia, in Sarajevo, in 1983,
9 1984.

10 Q. Thank you. Now I will start asking you about your first
11 interactions with the KLA. And I reiterate that if you can please
12 clear -- listen carefully to my question and provide focused answers.
13 And as you can see, you are speaking through a microphone, so you can
14 speak at a normal tone. We will hear you through the interpretation.

15 So, first of all, when did you official become a KLA soldier?

16 A. I officially became a KLA soldier sometime mid-May 1998 when the
17 Arti unit became public.

18 Q. Thank you. And before that time, were you supporting the KLA?

19 A. Yes, with all my possibilities.

20 Q. Thank you. Can you tell us how in practice you supported it?
21 What did you do to support it?

22 A. After the killing of the Jashari family, my people heard of the
23 massacre committed by the Serb criminals who killed an entire family.
24 I, following this, inquired to find ways as soon as possible to --
25 for me to provide help and support to the KLA.

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1 Q. What kind of help and support did you provide? What did you do?

2 A. Material support -- so until the Rahovec staff or headquarters,
3 I worked providing and supplying the KLA with material goods.

4 Q. And which KLA unit did you first support?

5 A. Initially, I supported the unit in Rezalle, Plluzhine, and
6 Likoc.

7 Q. And in what area is that?

8 A. This is in the territory of Drenica.

9 Q. And how did you hear about those KLA units? How did you know
10 that you could go there and help them?

11 A. I received information about these units from Gani Krasniqi from
12 Malisheve.

13 Q. And who was Gani Krasniqi? Was he connected to the KLA?

14 A. When I asked for him, I actually had known Gani Krasniqi from
15 earlier on when he had been a political prisoner, and I had heard
16 that he had information about KLA groups in Kosovo.

17 Q. Did you ever find out whether he was a KLA member?

18 A. Later, after meeting with him on several occasions, I understood
19 that he was a member of the KLA during the time I was interacting
20 with him.

21 Q. And to which KLA unit did he belong?

22 A. He was in the Malisheve unit, which name I did not know when I
23 met with him for the first time.

24 Q. Okay. Did you ever find out the name?

25 A. Yes.

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1 Q. What was it?

2 A. The Lumi unit in Malisheve.

3 Q. Thank you. And when was the first time that you went to the
4 Drenica area to supply the KLA?

5 A. The first time was on 11th, 12th, or 13th March. I cannot be
6 certain about the date. So it's either 11th, 12th, or 13th March
7 1998.

8 Q. That's okay. Thank you. And who did you go with?

9 A. I first went there with Gani Krasniqi.

10 Q. And you mentioned that you supplied Rezalle, Plluzhine, and
11 Likoc. For how long did you supply Rezalle and Plluzhine?

12 A. Until the moment the Drenoc staff or headquarters came out.

13 Q. And what about Likoc, for how long did you supply Likoc?

14 A. Rezalle, Likoc, and Plluzhine are three villages close to one
15 another, and I was asked to supply aid and goods and support to them.

16 Q. Okay. And where in Likoc did you go to supply these goods?

17 A. I told you the three dates when I started. But I first
18 delivered the aid at the warehouse in Rezalle, then another warehouse
19 in Plluzhine, and at the end in Likoc.

20 Q. Thank you. And in Likoc, where was this warehouse?

21 A. In Likoc, the warehouse was immediately on the left-hand side
22 along the road when you get to Likoc. So there was this warehouse
23 and a bakery for the soldiers.

24 Q. Did you meet other KLA members in Likoc?

25 A. No. I met with the warehouse keepers and the soldiers who

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1 helped unload the goods, but they were mostly in civilian clothes.

2 Q. Were there any KLA members in Likoc that you met during your
3 travel not specifically at the warehouse?

4 A. When I started going there, the soldiers were mostly wearing
5 masks. And during my travel, before I could arrive to Likoc, there
6 were points, several points manned by soldiers.

7 Q. And do you recall any KLA member who didn't have masks who you
8 recognised?

9 A. Yes, I do remember.

10 Q. Who did you see?

11 A. I saw my hero, the hero of my nation, of the KLA,
12 Fehmi Lladrovci and Xheve Lladrovci together in the most difficult
13 points with -- of his soldiers.

14 Q. Thank you. And do you know what Fehmi Lladrovci's role in the
15 KLA was?

16 A. At the beginning, I did not know because he was at the point as
17 a simple soldier. Then I understood that he had a role in the KLA.

18 Q. Okay. Was there anyone else that you recognised in Likoc or
19 Drenica?

20 A. I told you that I met with soldiers during my travel, but I did
21 not know them. I was not interested to know them, because I was
22 coming from a town where 5.000 Serbs lived there and that was
23 dangerous to me to inquire and obtain information, or even in their
24 eyes this would have potentially been suspicious for me to ask more
25 information about the soldiers.

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1 Q. Thank you. And did you ever find out the identity of other KLA
2 members you met in Drenica, including after the war?

3 A. I learned about their identity, of the legends of my nation,
4 during the Rambouillet conference and the delegation that was
5 representing us.

6 Q. Just focusing on my question. Did you at any point find out the
7 identity of a KLA member that you had met in Drenica; and if so, who
8 was that?

9 A. Yes. I understood about Hashim Thaci during the Rambouillet
10 talks, but then also after the war and my appointment as a commander,
11 and also when we met in person for the first time during the
12 commemoration's -- first-year commemorations of the Rahovec battle on
13 17 July.

14 Q. And how did you find out that you had met Hashim Thaci in
15 Drenica?

16 MS. TAVAKOLI: Objection, that wasn't what the witness said.

17 THE WITNESS: [Interpretation] No.

18 PRESIDING JUDGE SMITH: Go ahead. Just clarify.

19 MS. IODICE: Yes.

20 Q. Mr. Tara, you just said that you understood about Hashim Thaci
21 during the Rambouillet talks but then also when you met in person.
22 What did you understand about Hashim Thaci when you met him after the
23 war?

24 A. When I met him after the war on 17 July, he was already
25 officially the prime minister of the provisional government.

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1 Q. Mr. Tara, my question to you is whether at any point you
2 understood that -- the identity of those that you met in Drenica in
3 1998. Was there ever a time where you understood the identity of the
4 KLA members that you met in Drenica; and if so, whom did you meet?
5 Whom did you find out you had met in Drenica?

6 A. I did not know the people I met in Drenica, Madam Prosecutor. I
7 knew -- came to know them afterwards when I met with them in person.
8 I explained that I became aware of the fact that Hashim Thaci was a
9 high representative of the KLA during the Rambouillet negotiations.
10 Then I met with them and understood who they were, but not that I met
11 them or knew about them in Drenica. Am I clear enough?

12 Q. No, you're not answering my question. My question is --
13 Mr. Tara, wait for the question --

14 A. Then --

15 Q. Mr. Tara, please wait --

16 A. Then make your question --

17 PRESIDING JUDGE SMITH: Mr. Tara, wait. Wait.

18 THE WITNESS: [Interpretation] -- clearer or change it.

19 MS. TAVAKOLI: I think the witness is answering the question.

20 PRESIDING JUDGE SMITH: I thought he answered the question too,
21 the way you asked it. So you have something else to say, you might
22 want to clarify it.

23 MS. IODICE: Yes.

24 Q. Mr. Tara, you said --

25 A. Yes, please, but speak closer to the mic because I can't hear

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1 you very well. Yes?

2 [Trial Panel and Court Officer confers]

3 PRESIDING JUDGE SMITH: The volume is as high as it will go.

4 MS. IODICE: Okay. Could we maybe ask the interpreter to speak
5 closer to their microphone.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MS. IODICE: Thank you.

8 Q. Mr. Tara, did anyone ever inform you about the identity of the
9 KLA members that you met in Drenica in 1998?

10 A. No.

11 MS. IODICE: Okay. I would like -- with Your Honours' leave, I
12 would like to show the witness a prior statement pursuant to
13 Rule 143(2) (b) and (c).

14 PRESIDING JUDGE SMITH: Yes, go ahead.

15 MS. IODICE: Thank you.

16 If we could please have 125903-125933, PDF page 27. And if we
17 could focus on paragraph 140.

18 Q. Mr. Tara -- Mr. Tara, just wait for my question.

19 A. [In English] Okay.

20 Q. I will read out a part of your statement. Here you're recorded
21 saying:

22 "W04745 indicates that some time after the war, Hashim Thaci
23 told W04745 that he had met him in Drenica in March 1998. However,
24 [the witness] did not know at the time of that meeting that the
25 person was Hashim Thaci."

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1 Is that a fair reflection of your evidence?

2 A. [Interpretation] Yes, it is a correct reflection of my
3 statement. But the question, the way you put it is not correct. You
4 may ask Hashim Thaci if he met me or not. When I met him after the
5 war, he told me that, "I saw you," but he didn't reveal his identity.

6 PRESIDING JUDGE SMITH: Just answer the questions.

7 MS. IODICE:

8 Q. Thank you, Mr. Tara. You've answered the question.

9 Now I'd like to ask you a few more questions about the KLA staff
10 in Malisheve. So, first of all, when did you first hear about
11 Malisheve staff?

12 A. Regarding the Malisheve staff, I heard during those three days
13 that I mentioned. The first day I travelled with Gani Krasniqi to
14 Likoc, Plluzhine, and Rezalle, because we had to pass through that
15 territory.

16 Q. And how did you hear about it?

17 A. I saw soldiers with automatic rifles in Malisheve.

18 Q. Do you know when it was formed?

19 A. I already said that it was for the first time on the 11th, 12th,
20 or 13th March that I went to Malisheve with Gani Krasniqi, and it was
21 there that I saw those soldiers, but I didn't know them. I did know
22 Gani Krasniqi from 1993, 1994.

23 Q. Thank you. And apart from going there and seeing the soldiers,
24 did you ever actually visit the Malisheve staff of the KLA?

25 A. After I went there a few times, and after I met Gani Krasniqi, I

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1 met him at a store in the centre where their units were gathered.

2 Q. Did you ever visit the headquarters of the Malisheve staff?

3 A. I don't know if it was a staff or it was a group of soldiers,
4 but I said I visited a group of people that I thought -- or I took
5 them to be members of the KLA.

6 Q. Thank you. Now moving on to the Drenoc staff and your knowledge
7 about it. When did you first hear about the Drenoc staff of the KLA?

8 A. I heard of it when I was in Likoc staff providing assistance and
9 aid. And then I went to assist the staff in Drenoc because it is a
10 staff that belongs to my city, to my municipality.

11 Q. And how did you hear about it?

12 A. It was very easy to hear about that. At that time when the
13 Drenoc staff became public, KLA was spread out in many places. This
14 village is only 5 kilometres away from where I lived, and there were
15 many people that I knew who came to Rahovec, my city, so everybody
16 knew about it, not only myself.

17 Q. And when was the first time that you went to the Drenoc
18 headquarters? Do you remember?

19 A. I remember that the first time was two or three days after it
20 emerged.

21 Q. Do you know more or less when that would have been? Can you
22 give a date, an approximate date?

23 A. It may have been in April, sometime in April.

24 Q. Do you know if it was towards the beginning or towards the end
25 of April?

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1 A. I think it must have been sometime in the middle or end of
2 April, to my recollection, because I didn't write down the dates.
3 Never.

4 Q. That's okay. Thank you. And who did you meet at the Drenoc
5 headquarters?

6 A. You're asking me about the first time or you want me to give
7 details about every meeting?

8 Q. No, I don't need to know details about every meeting. I would
9 like to know whom in the staff of Drenoc you met.

10 A. When I went there for the first time, I was stopped by the
11 soldiers wearing masks. It was about 1 kilometre before you enter
12 Drenoc. And they asked me, those soldiers, where I was going, and I
13 told them that I want to provide assistance to the Drenoc staff,
14 because I am from Rahovec and all my population has contributed to
15 aid for the KLA soldiers.

16 Q. And where did the soldiers direct you to?

17 A. The soldiers called someone in Drenoc, and they asked -- told me
18 that they had to take the permission of their commander to allow me
19 to go there.

20 Q. And did they tell you who their commander was?

21 A. Then I learned, because I met him, it was Xheme Gashi.

22 Q. And did he have a nickname?

23 A. Yes, later on I found out, after I went there a few times, it
24 was Gjermani, the nickname.

25 Q. And how often did you go to the Drenoc headquarters?

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1 A. Maybe three or four times, as often as I had collected aid. I
2 had to travel about ten minutes to this village. Every time I
3 managed to pull some aid, I went there.

4 Q. Thank you. Where was the headquarters located?

5 A. Initially, they were located in private homes where I met Xheme.
6 Then later on at the exit of Drenoc, in the direction of
7 Kasenovce [phoen], in the direction of Zatriq mountain, that's where
8 they were based.

9 Q. Thank you. And in addition to Xheme Gashi, who else was in the
10 Drenoc staff command to your knowledge?

11 A. Later on I heard, or maybe he came, Mahir Hasani as the chief of
12 staff.

13 Q. Anyone else?

14 A. I met there also with people that I didn't know them to be
15 members of the staff. I met Mensur Zyberi or 500, *Pesqindshi*, when
16 he was there present. When I met the commander Xheme Gashi or Mahir
17 Hasani, I realised that he was a person that played an important role
18 in the KLA in Drenoc village.

19 Q. And what made you --

20 A. Then I met Isuf Gashi too.

21 Q. Just one second. What made you realise that Mensur Zyberaj
22 played an important role?

23 A. Because I often saw him talking with the commander, the chief of
24 staff, and I saw that they respected him.

25 Q. And you mentioned Isuf Gashi. Did you know his role?

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1 A. I don't know what role he had, but he was the oldest and very
2 much respected there in that village.

3 Q. Okay. And when did you stop supplying the Drenoc staff?

4 A. I stopped supplying Drenoc village when they went to Rahovec
5 staff.

6 Q. The staff you're referring to as Rahovec staff, was it also
7 known by any other name?

8 A. Arti staff of Rahovec.

9 Q. Thank you. And I'll now ask you a few questions about it. When
10 was the Arti staff established?

11 A. It was established sometime in the middle of May 1998.

12 Q. And do you know who established it?

13 A. Yes. Commander Toni, Commander Mici, Commander Piktori, and
14 Ismet Tara that is present here in front of you.

15 Q. Thank you. And can you please tell us the full names of Toni,
16 Mici, and Piktori?

17 A. Xhelal Hajda, Toni; Selajdin Mullabazi, Mici; and Gezim Hamza,
18 Piktori; and Ismet Tara, albeit Hoxha, the one talking to you here.

19 Q. Thank you. And before joining the Arti unit, had any of them
20 been part of any other unit?

21 A. These three people were members of Drenoc unit.

22 Q. Thank you. What about Toni, was he also -- in addition to the
23 Drenoc unit, was he also a member of any other unit before that time?

24 A. Yes, he was a member of Dukagjin unit of -- led by
25 General Ramush Haradinaj.

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1 Q. And in Drenoc, who was the commander of Toni, Mici, and Piktori?

2 A. The ones I mentioned earlier, Xheme Gashi and Mahir Hasani, in
3 Drenoc village.

4 Q. Thank you. Can you please tell us why the Arti unit was
5 established?

6 A. Arti unit was established because during the time of Drenoc
7 staff, in Rahovec, my city, police forces came and committed crimes,
8 maybe in Croatia and Bosnia, and they put up their base in the hotel.
9 The population was afraid of them, and they asked us to be -- to
10 defend them in the -- we were in the vicinity of our city to protect
11 our population.

12 Q. Thank you. Who was the commander of the Arti unit?

13 A. The commander of the Arti unit was Xhelal Hajda, Toni.

14 Q. Who was the deputy commander?

15 A. The deputy commander was Selajdin Mullabazi, albeit Mici.

16 Q. And who was the chief of staff?

17 A. Chief of staff was Gezim Hamza, Painter, Piktori.

18 Q. And did you respect the commanders?

19 A. We were very close until the end with them.

20 Q. When they asked you to do something, did you comply?

21 A. As much as I could.

22 Q. Thank you. Where was the headquarters of the Arti unit?

23 A. The headquarters of the Arti unit was at the exit of Rahovec in
24 the place where even today there are some sheds.

25 Q. I'm not sure if the translation was complete. Witness, can

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1 you --

2 THE INTERPRETER: Can you ask the witness, please, what he means
3 by "the sheds," "sheds for the livestock."

4 MS. IODICE: Yes.

5 Q. Can you specify exactly where the Arti unit was located? Can
6 you repeat it?

7 A. When you leave Rahovec and go in the direction of Drenoc, you
8 can go to Malisheve, Drenoc, Bellacerke, Xerxe, at that cross point,
9 some 2 kilometres, on the left-hand side there is a barn at the foot
10 of a mountain.

11 Q. And you mentioned a livestock barn. What type of livestock barn
12 was it?

13 A. It was for the sheep, livestock, sheep barn.

14 Q. Thank you. How many KLA members did the Arti unit have?

15 A. We went there for the first time, we were about 20, 25 soldiers,
16 and then the largest number that the Arti staff had in terms of
17 soldiers was about 180 soldiers.

18 Q. Thank you.

19 MS. IODICE: And could we now please have ERN U001-8192 to
20 0001-8197 and its English translation.

21 Q. Do you remember seeing this document last week?

22 A. Yes, we saw it together during our preparation session.

23 Q. Just one second. One second.

24 A. I have something else to say. I saw this document in 1990
25 during the first interview with the famous group of prosecutors that

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1 made me feel worried before being here.

2 Q. Okay. You mean in 2019?

3 A. Yes, 2019.

4 Q. Thank you. Now, do you recognise the people on this list? And
5 if you have a problem seeing the names, I can read them out for you.

6 A. Most of them I know.

7 Q. And to your knowledge, to which unit did they belong? Those you
8 know.

9 A. I don't know the unit they belonged to, but Abdullah Bugari's
10 group served initially as protectors of that point of Arti staff.

11 Q. So was this -- is this a group part of the Arti unit?

12 A. Yes.

13 Q. Thank you. And to your knowledge, you mentioned Abdullah
14 Bugari, was he the leader of the Lahi group?

15 A. According to what I understood, because he was the one
16 responsible for changing the soldiers there. Otherwise, I was a
17 chief of logistics and finance in the Arti unit.

18 Q. Thank you. And we'll get to that in a second.

19 MS. IODICE: Can we move to page 2.

20 Q. Do you --

21 MS. IODICE: And if we can zoom in a little bit more so -- the
22 Albanian version.

23 Q. Do you --

24 A. I can see them.

25 Q. Do you recognise these people and do you know to which staff

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1 they belonged?

2 A. They belong to the Arti staff. Toni, Mici, Gezimi, and
3 Commander Hoxha's, at the end, after the war.

4 Q. Thank you.

5 MS. IODICE: And can we please scroll down to where the
6 commander -- yes.

7 Q. And to your knowledge, was Myhedin Isma the leader of the Genci
8 group?

9 A. Yes. Like Lahi, or Abdullah Bugari, he was responsible for
10 changing the soldiers and protect the command.

11 MS. IODICE: Could we please go to the next page.

12 Q. Do you recognise these names and do you know whether they belong
13 to any KLA unit?

14 A. Most of them I do know even now. There is this Bashkim Mejsini,
15 he may have been there but I don't remember. But I don't know him as
16 part of the group, of Luani group.

17 Q. Do you know whether they belonged to a KLA staff; and if so,
18 which one?

19 A. Arti staff of Rahovec.

20 Q. Thank you.

21 MS. IODICE: Can we please go to the next page.

22 Q. And what about these ones? Do you know to which staff they
23 belonged?

24 A. They belonged to the Arti staff of Rahovec.

25 MS. IODICE: And could we please go to the next page.

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1 Q. The same question for these names. Do you know to which staff
2 they belonged?

3 A. They belong to the Arti staff, too.

4 Q. Thank you.

5 MS. IODICE: Your Honour, I'd like to tender this document.

6 PRESIDING JUDGE SMITH: Any objection to the document?

7 MR. DIXON: Yes, Your Honours. We have our consistent objection
8 on these documents which are not those of the witness. The witness
9 can be asked about names perfectly properly, but he's not able to
10 authenticate these particular documents in the form they're in. If
11 there's some particular significance to that, we haven't been put on
12 notice of that. The witness's evidence can be heard on the names but
13 not on the documents, and therefore the documents should not be
14 admitted.

15 PRESIDING JUDGE SMITH: The documents will be admitted. They
16 are properly contextualised. They are part of the -- they comply
17 with the *prima facie* standard, Rule 138.

18 ERN 001-8192 to 001-8197 is admitted.

19 THE COURT OFFICER: Thank you, Your Honours. This will be
20 admitted as P02076. It is currently classified as confidential.

21 PRESIDING JUDGE SMITH: Thank you.

22 MS. IODICE: Thank you. Now could we please have ERN U000-6735
23 to U000-6739. Thank you.

24 Q. Do you remember --

25 MS. IODICE: And if we could go to the next page in Albanian,

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1 please. Thank you.

2 Q. Do you remember seeing this document last week?

3 A. Yes.

4 Q. And do you recognise the names on this list?

5 A. Most of them, yes. But I already told you that I had no
6 connection with the soldiers. But most of the soldiers of the Arti
7 staff I used to know and I know them to this day, but I can't say I
8 know all the soldiers because I didn't have any direct business with
9 the soldiers, being chief of logistics and of finance.

10 Q. Yes, thank you. The names that you do recognise on this list,
11 are they members of the Arti unit?

12 A. These are notes made by Sabahajdin Cena, my honourable
13 professor, on the day that a soldier came there and registered,
14 taking note of everything related to them, like birth date and so on.
15 So I don't think there may be mistakes there because I think he took
16 correct note of everything. Most of them I know, as I said, but I
17 cannot testify to each and every one. Maybe I have to look carefully
18 at every entry. But as I said, I know that most of them were
19 soldiers. I have no doubt about the correctness of the note made by
20 the distinguished professor.

21 Q. Thank you.

22 MS. IODICE: Your Honour, I'd like to tender this document into
23 evidence.

24 PRESIDING JUDGE SMITH: Objection? Objection? None.

25 U000-6735 to U000-6739 is admitted.

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1 THE COURT OFFICER: Thank you, Your Honours. This will be
2 admitted as P02077. Classified as confidential. Thank you,
3 Your Honours.

4 PRESIDING JUDGE SMITH: Thank you.

5 MS. IODICE: And could we now please have ERN SPOE00227429 to
6 SPOE00227430.

7 Q. Do you remember seeing this document?

8 A. Can you please zoom in a little bit.

9 MS. IODICE: If we could focus on the right side for now of the
10 page in Albanian so that he can see.

11 THE WITNESS: [Interpretation] Now it's fine.

12 MS. IODICE: And if we could scroll down a little bit so that
13 the entire page in Albanian is shown. Thank you.

14 Q. Do you --

15 A. That's fine.

16 Q. Do you recall seeing this document last week?

17 A. Yes.

18 Q. This document is a note about Asllan Klecka?

19 A. Yes.

20 Q. And it states that he was a member of the Arti and that he was
21 under the control of "our forces." Do you remember discussing this
22 issue with anyone in the Arti unit?

23 A. The professor informed me about this document, but I was not
24 present when this was prepared. We discussed the matter, though.

25 Q. And what did the professor tell you?

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1 A. The professor told me that he needed information about Asllan
2 Klecka because somebody in the staff had some suspicions as to his
3 enrollment in the KLA.

4 Q. Why did someone have some suspicions, some suspicion?

5 A. I don't know why, but I thought perhaps he might have
6 acquaintances amongst the police force or Serbs in Rahovec. This was
7 only my opinion, what I thought.

8 MS. IODICE: If we can please go to the next page.

9 Q. And on this page it is stated that his children were part of the
10 KLA. To your knowledge, were Asllan Klecka's sons part of the KLA?

11 A. Yes.

12 Q. Thank you. And do you see the names at the bottom, Sabahajdin
13 Cena and Ismet Tara?

14 A. Yes.

15 Q. You mentioned a professor. Is that Sabahajdin Cena?

16 A. Yes.

17 Q. Do you know why this document was addressed to Likoc?

18 A. I did not know. And to this day I do not know whether it was
19 sent somewhere, and if so, where. So I don't know even today.

20 Q. My question, though, was whether you knew why we can see Likoc
21 written there. Do you know? Independently from whether it was sent.

22 A. You should have asked this question to Professor Sabahajdin Cena
23 about this while he was still alive and interviewed by your office
24 because he prepared this document.

25 Q. Do you know the answer? I'm asking you now.

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1 A. No.

2 Q. Do you remember me asking you this question during the
3 preparation session last week?

4 A. Yes.

5 Q. Do you remember the answer that you gave me in relation to this
6 document being addressed to Likoc?

7 A. Yes. I told you that I had been informed about this document, I
8 was aware of it, and that I did not know what happened to it any
9 further, if and where was it sent to. I'm giving you the same answer
10 today.

11 MS. IODICE: Your Honour --

12 THE WITNESS: [Interpretation] Or make perhaps your question more
13 specific. Rephrase your question so I can understand better.

14 MS. IODICE: Your Honour, at this time I'd like to show the
15 witness a prior statement pursuant to Rule 143(2)(b) and (c).

16 PRESIDING JUDGE SMITH: Yes, go ahead.

17 MS. IODICE: Could we please have 125903 to 125933, PDF page 23.
18 If we could focus on paragraph 127.

19 Q. Here you are recorded saying:

20 "The letter was addressed to Likofc because the main staff of
21 the KLA was there. At that time - 17 July 1998 - everyone would have
22 known this."

23 Is that an accurate reflection of your evidence?

24 A. No. I was asked about the name Syle which is there, and I
25 answered saying that I knew the person who went by the name Syle.

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1 Q. Mr. Tara, I will ask you about that. Right now what I would
2 like to know is if what you are recorded saying in relation to the
3 letter being addressed to Likoc is correct. And what you are
4 recorded saying is:

5 "The letter was addressed to Likofc because the main staff of
6 the KLA was there."

7 Is that an accurate reflection of your evidence?

8 A. No, that's not correct. I know this was prepared and meant for
9 someone, but I do not know that. However, I said that at the time it
10 was known that there was a staff in Likoc, but I did not say this
11 went or was sent to the Likoc staff. Let's make it clear, because I
12 need to make this clear for the Court.

13 The questions I was asked in 2019, the interpretation, the
14 translation was very confusing, and I had to make a number of
15 corrections and changes with the Prosecutor. The interpretation did
16 not match at all my answers in Albanian during that interview. So
17 please don't put me through the same thing as you did in 2019. I
18 don't -- I tell the truth, I have told the truth and only the truth,
19 and my answers will always be straightforward --

20 Q. Thank you, Mr. Tara.

21 A. -- and correct.

22 Q. Thank you. That's --

23 A. I did not say that --

24 Q. That's very clear. It's recorded. Thank you.

25 MS. IODICE: Your Honour --

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1 PRESIDING JUDGE SMITH: Ma'am, we're going to take a short
2 break.

3 MS. IODICE: Yeah.

4 PRESIDING JUDGE SMITH: We'll give you a ten-minute break,
5 Witness, and then we'll come back to the courtroom and continue.

6 THE WITNESS: [Interpretation] I have a request for you,
7 Your Honour.

8 PRESIDING JUDGE SMITH: Just -- we're going to take a break --

9 THE WITNESS: [Interpretation] I have a request before I leave
10 the courtroom. I would like the Court to show me the document in
11 which I have raised my suspicions and doubts regarding my interviews
12 with the investigators and Prosecutors in 2019. Otherwise --

13 PRESIDING JUDGE SMITH: I've turned off your microphone.

14 THE WITNESS: [Interpretation] -- from this moment onwards I
15 will --

16 PRESIDING JUDGE SMITH: I've turned off your microphone again.
17 You have to listen. We're not going to do this today. Today you're
18 going to answer questions. We'll give you time after you're finished
19 to make a statement. Please leave the courtroom right now. We're
20 taking a ten-minute break.

21 THE WITNESS: [Interpretation] From this moment onward, I will
22 not say a word. You can ask whatever question. If that moment about
23 which I raised my concerns, which endangered my life and that of my
24 relatives, in which I was described as a traitor to my nation, as a
25 traitor to the KLA, as a traitor to the martyrs of my nation, and all

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1 those slaughtered civilians and deported from the country, before
2 clearing the name of Commander Hoxha, with respect to that document,
3 I will not give any further statement.

4 [Microphone not activated].

5 I will give no further answers unless that document is reviewed.

6 PRESIDING JUDGE SMITH: Please leave the room.

7 THE WITNESS: [Microphone not activated].

8 [Interpretation] I don't know if you can hear me or not, but I
9 am letting you know that I will not answer to any questions any
10 further.

11 [The witness stands down]

12 PRESIDING JUDGE SMITH: We're adjourned for ten minutes.

13 --- Break taken at 10.12 a.m.

14 --- On resuming at 10.22 a.m.

15 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness
16 in.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 Can you hear me all right, Mr. Tara? Can you hear me okay?

20 THE WITNESS: [Interpretation] Yes, Your Honour.

21 PRESIDING JUDGE SMITH: Mr. Tara, I want you to understand that
22 we know what document you're talking about, and we know that you have
23 things you want to say about it, and the Prosecution will present it
24 to you at some point but she has to get to that point first. We ask
25 you to be patient. You're here as a witness, you're here to answer

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1 questions, and you're under an obligation to answer and to tell the
2 truth.

3 But when we get to that document, if you want to be in private
4 session so that only those people in this room can hear the questions
5 and answers, we can accommodate that for your protection or the
6 protection of your family if you think that's important. But we do
7 want to continue and let you have an opportunity to see that document
8 when the proper time comes. I'm not sure when that will be today,
9 but it will happen.

10 Can we please go ahead now with your understanding?

11 THE WITNESS: [Interpretation] No. I will not answer any
12 questions until the review of that document is done in public
13 session, open session, because I want the civilians, my relatives, my
14 friends, my comrades, to hear all this.

15 PRESIDING JUDGE SMITH: We have no problem -- I was --

16 THE WITNESS: [Interpretation] I will not say anything,
17 Your Honour.

18 PRESIDING JUDGE SMITH: Well, we --

19 THE WITNESS: [Interpretation] I have given my answers to the
20 Prosecution.

21 PRESIDING JUDGE SMITH: Please, Mr. Tara. We need to get on
22 with this. It's your option. If you want to be in public session,
23 that's perfectly all right. We have no problem with that. I was
24 merely giving you an option.

25 Now, we do have to proceed. You will be ordered to answer the

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1 questions. Do you understand? You don't have the option -- you're
2 here to testify --

3 THE WITNESS: [Interpretation] I have given my answers,
4 Your Honour, to the Prosecutor, and I have given my answers in 2019
5 to all those investigators in front of me, and I stand by those --

6 PRESIDING JUDGE SMITH: But we --

7 THE WITNESS: [Interpretation] -- but I will not speak --

8 PRESIDING JUDGE SMITH: Mr. Tara --

9 THE WITNESS: [Interpretation] -- before this document is
10 reviewed.

11 PRESIDING JUDGE SMITH: Mr. Tara, we have not heard this. We
12 weren't at those meetings. This has to come to us. We have to hear
13 you answer and explain. If you want to explain, you'll be able to
14 explain, but we have to hear that from you. We are not going to rely
15 on something else that happened years ago. We want to hear from you
16 now. Do you understand? It's important to us to understand what
17 your position is.

18 THE WITNESS: [Interpretation] You will receive all my answers
19 but after reviewing this concern of mine which is vital to me, which
20 threatened my honour, the honour of my family. I will give all the
21 answers to any questions after this concern is addressed.

22 PRESIDING JUDGE SMITH: How does the Prosecution wish to
23 proceed?

24 MS. IODICE: Your Honour, I can give my word to the witness that
25 we will show him that document in due course, but right now I'd like

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1 to proceed in an order that's chronological. So I would like to
2 proceed as we were going ahead. But he has my word that I will show
3 him the document and give him ample opportunity to comment on it.

4 PRESIDING JUDGE SMITH: She's trying to work up to this in a
5 chronological way in accordance with the time. We're still in 1998
6 at this point. Can we please just go on and have you answer these
7 questions? It's important that she go through this in a normal way,
8 and then we will get to your document and you will be able to
9 question it or talk about it.

10 THE WITNESS: [Interpretation] Your Honour, I accepted to speak
11 until now out of respect for you. But I made it clear to the
12 Prosecutor that I would not be saying anything until the document is
13 reviewed.

14 However, again, I am ready to answer any questions but after we
15 go through this document. Meaning, what did those investigators,
16 which, in my opinion, based on what was written down, are criminal
17 investigators because they proclaimed me and my family in that
18 document as a traitor to my nation, a document which I never signed
19 and which was never shown to me.

20 PRESIDING JUDGE SMITH: Mr. Tara, part of the reason you're here
21 is so that you can say the things you need to say. If you refuse to
22 answer all questions, there are other procedures that the Prosecution
23 can take to admit your prior statements and included in that will be
24 that document, and you will never be able to question it if that's
25 done that way.

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1 So it is to your benefit to go through this process and answer
2 the questions about that document here in court when it comes up in
3 the normal course. But if you refuse altogether, that document may
4 very well be reviewed by the Panel without having you here to
5 question it. Do you understand?

6 THE WITNESS: [Interpretation] I would like to inform -- to
7 convey my concerns as I did with the Prosecutor. The Prosecutor
8 answered to that - meaning my concerns - saying that I had changed my
9 statements on several occasions, and so and so. I expressed this
10 concern of mine to the Prosecutor, I expressed it to the members, of
11 my physical safety, which is a grave concern for me.

12 If we could please just have this document, review it quickly,
13 and then I will be more than happy to answer to any questions put to
14 me, and my answers will be very clear. I am not emotionally able now
15 to answer further questions if we do not review that or go through
16 that document beforehand.

17 PRESIDING JUDGE SMITH: Prosecution, you may proceed.

18 MS. IODICE: Could we please bring back the document that we
19 were looking at before, and that's ERN SPOE00227429.

20 Q. Mr. Tara, before the break we were discussing this document. On
21 the first page, there is a note "For Sylva." Do you know who Sylva is?

22 A. You have my answer. I will not speak any further. No need to
23 ask further questions.

24 Q. Mr. Tara, the Judges need to hear your answer from you now.

25 A. They will hear my answer after reviewing the document which I

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1 want to be clear and known to my people what is this about in this
2 court.

3 Q. Mr. Tara, as indicated, I will show you that document very soon,
4 and the sooner you answer my questions the sooner we will get to that
5 document, and you will have an opportunity to answer. So if we can
6 please continue now, I will get to that in due course. We need to
7 finish this topic and a few more topics before we can get to that.
8 Otherwise, it will not be clear what that document means.

9 So please answer my question: Who is Syla?

10 A. I need half an hour to review that document. After which, I
11 will give quick, straightforward, clear answers just like I did
12 during the 32-hour interview with you and the investigators in 2019.

13 MS. IODICE: Your Honour, at this point I'd like to refresh the
14 witness's memory with a prior statement.

15 PRESIDING JUDGE SMITH: Yes, go ahead.

16 MS. IODICE: Could we please have Preparation Note 125903 to
17 125933, and go to PDF page 23 and paragraph 127.

18 Q. Witness, during our meeting last week, when I showed you this
19 document you stated:

20 "[The witness] does not know who Sultan refers to, but Syla was
21 a short name for Sylejman Selimi."

22 Is that an accurate reflection of your evidence?

23 A. You know my answers. I will not speak anymore.

24 MS. IODICE: Your Honour, at this point I would like to tender
25 this document into evidence.

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1 PRESIDING JUDGE SMITH: Any objection?

2 MR. DIXON: Your Honour, is it the handwritten document? It's
3 not the preparation note?

4 MS. IODICE: Yes.

5 MR. DIXON: Yes, Your Honour, we do object to the handwritten
6 document coming in given the witness's live testimony about not
7 signing the document, it not being his document, and him not knowing
8 anything about what happened to this document.

9 He has given evidence about an incident, but he's unable to give
10 any evidence that authenticates this document, and he's already
11 pointed to the person who would be able to give that evidence
12 previously. So we'd object on that basis.

13 MR. ELLIS: Your Honour, can I simply add our standing objection
14 to the search to that.

15 MR. MAIR: Your Honour, we would join the objection as well.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MS. IODICE: Thank you, Your Honour. And if I can note for the
18 record that this document is item 156 in F02944A-01, the Pashtrik bar
19 table motion.

20 THE COURT OFFICER: Your Honours, SPOE00227429 to SPOE00227430
21 will be marked as -- it will be marked for identification as P02078,
22 and it's classified as confidential. Thank you, Your Honours.

23 MS. IODICE: Apologies, Your Honour.

24 Q. Mr. Tara, in order to make sure that we proceed expeditiously, I
25 will now show you a document which I believe that's the document you

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1 are referring to, and I will ask you whether you dispute what's in
2 it, and then we will move on. Okay?

3 MS. IODICE: And this is -- could we have, please, SPOE00144632
4 in both languages.

5 THE WITNESS: [Interpretation] I don't hear very well. The
6 volume is too low. Or maybe the interpreter or the Prosecutor is
7 speaking too low.

8 PRESIDING JUDGE SMITH: Can you hear me?

9 THE WITNESS: Yes.

10 PRESIDING JUDGE SMITH: She is going to show you the document
11 you referred to.

12 THE WITNESS: [No interpretation].

13 PRESIDING JUDGE SMITH: It will be on your screen.

14 MS. IODICE:

15 Q. Mr. Tara, is this the document that you were referring to?

16 A. Can you move it back to the end of it so that I can see the
17 signature?

18 MS. IODICE: If we could scroll down.

19 Q. Mr. Tara, this is --

20 A. [In English] Please.

21 Q. -- a note -- please listen to my question, and you will be given
22 an opportunity, but you have to answer my question. This is a note
23 of a meeting that you had with UNMIK representatives in 2001. Do you
24 remember having a meeting with UNMIK representatives in 2001?

25 A. [Interpretation] It's not the document I'm asking for. And from

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1 here now on, I won't trust this Court. You have changed the
2 document. It's not the document I'm asking. I have not read this
3 document. It is signed by my interviewers in 2019, without my
4 knowledge, without my signature. You have tried to alter the
5 document. This is not the document I'm asking for, Mrs. Prosecutor.

6 From now on, I won't trust this Court anymore and I won't utter
7 a word. I am asking for the document of 2019 signed by the
8 interviewers and prosecutors, an interview that lasted for 32 hours,
9 without my knowledge, without having been given this document to me
10 to read, a document that portrays me as a traitor to my country, to
11 my heroes.

12 This is a document that I've never seen before.

13 I asked you to give me a copy of the document. You never gave
14 it to me, Ms. Prosecutor. I asked for the number of the document,
15 you didn't give it to me. And I suspected that the document will get
16 lost, and I believe it is lost if you don't show it to me. I am not
17 here to play with me. I have fought for my people. I am not afraid
18 of anyone regarding what I've done.

19 I've testified for 32 hours, and I can testify again for another
20 32 hours. I have the CDs of that interview. I have that with me. I
21 can give them to you. I don't trust the translation of 2019. But I
22 have the CDs with me here. And if you want, I can provide them to
23 you, and you can see for yourselves. But this document was never
24 ever shown to me.

25 We have discussed this document --

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1 PRESIDING JUDGE SMITH: Your microphone is off again because --

2 THE WITNESS: [Microphone not activated].

3 PRESIDING JUDGE SMITH: -- you're not responding.

4 MS. IODICE:

5 Q. Mr. Tara, maybe I'll read a portion of this document so that it
6 might help your recollection that this is the document we are
7 referring to. So if you can please -- if you can please --

8 A. I don't want this document. I don't want this document. This
9 is not the issue I'm asking for.

10 PRESIDING JUDGE SMITH: Mr. Tara, your microphone is off again.
11 You're going to have to answer the questions that are asked. You
12 don't get to be in charge of what questions are asked. The
13 Prosecution will ask you questions, then the Defence will ask you
14 questions, and you have to answer them.

15 MS. TAVAKOLI: I don't mean to interject, but I'm just wondering
16 if the witness is talking about his 2019 SPO interview that was 20
17 parts, and therefore could have been 32 hours.

18 PRESIDING JUDGE SMITH: That's what he is asking.

19 MS. IODICE: Yeah, I can show that to him, but my understanding
20 was very different.

21 So if we can please bring up transcript 083217-TR-ET and the
22 Albanian version, which is 083217-TR.

23 THE COURT OFFICER: If I may seek for clarification, any
24 particular part?

25 MS. IODICE: We can start with Part 1.

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1 THE COURT OFFICER: Thank you.

2 And another clarification if we should show the revised versions
3 or not?

4 MS. IODICE: Yes, thank you.

5 Q. Mr. Tara, do you remember seeing this transcript last week?

6 A. Can you scroll it down to the end, please?

7 Q. Mr. Tara, there are no signatures on this document. It is a
8 transcript of the audio-video --

9 A. This is not the document I am asking for. No. I know what I'm
10 asking for because I already asked to be given a copy of the document
11 on the number by which it is recorded. This is not the same
12 document. You are manipulating, Mrs. Prosecutor. I want that
13 document. Half of it was read out to me by the interpreter in
14 Albanian --

15 Q. Yes.

16 A. -- because I couldn't read it myself. Do you remember?

17 Q. Mr. Tara, do you remember -- please answer my question. Do you
18 remember reviewing this statement last week?

19 A. I don't remember anything --

20 Q. Do you remember --

21 A. -- without looking at the document. Then, everything will come
22 back to me.

23 Q. Do you remember us asking you whether the SPO representative
24 behaved professionally during the interview?

25 A. I am telling you, show me the document, then I will speak. It

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1 is a very, very important document to show what this Court is doing
2 to the KLA fighters, staining --

3 Q. Mr. Tara --

4 A. -- the image of it --

5 Q. Please, you've answered --

6 A. Don't ask me. I won't answer.

7 Q. You have answered the question.

8 A. After I see the document on the screen, the document I asked
9 for, either give me a copy of it or the number of it -- of its
10 registration so that I can ask the Judges to show the document. You
11 know very well what document I am talking about. Then we can proceed
12 very smoothly, without any problem.

13 Without that document, I have no answer.

14 Q. Mr. Tara, I showed you the document earlier and you said it
15 wasn't the right document. I've offered to read parts of the
16 document to you, and you didn't want to hear it. So now I'd like to
17 show a prior statement.

18 MS. IODICE: If we could please go to ERN 125903, page 3. And
19 if we could focus on paragraph 12, please.

20 Q. Last week when we asked you that question in relation to your
21 2019 interview, you are recorded stating that:

22 "... during his SPO interview, the SPO representatives sometimes
23 put pressure on [the witness] to answer a question, by repeating a
24 question he believed he had answered. He also recalls feeling tired
25 during the interview. [The witness] further noted that the SPO

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1 representatives behaved professionally and correctly throughout the
2 interview, and he has no complaints about the process."

3 Does that accurately capture your evidence?

4 A. I can't hear well. Only after the interpreter who read half of
5 the document in Albanian comes here, because she --

6 PRESIDING JUDGE SMITH: Just a second. Witness, it is not up to
7 you to decide what the conditions are for your testimony. Answer the
8 question made by the Prosecutor.

9 THE WITNESS: [Interpretation] I won't give any answer. I
10 already said that I won't answer any questions before that document
11 is shown to me, half of which I read myself, half of which was read
12 out by the interpreter because I was unable to read it. I was
13 crying.

14 JUDGE GAYNOR: Witness, can I ask you a question?

15 Is my understanding correct that you were interviewed in 2000 by
16 UNMIK and in 2001 by UNMIK; is that right?

17 THE WITNESS: [Interpretation] I was not interviewed by UNMIK
18 ever. I saw that document that was shown to me, but I am asking for
19 my document which was read -- half of it was read by my interpreter
20 because I was unable to read it. Without showing me that document, I
21 declare that this is a Court that wants to punish us as a nation, as
22 a KLA, as Albanians. Without that document, you no longer represent
23 a credible Court to me.

24 JUDGE GAYNOR: Mr. Tara, I want to understand the document
25 you're talking about. You also were interviewed in 2019 for several

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1 days by the Specialist Prosecutor's Office; isn't that right?

2 THE WITNESS: [Interpretation] Yes.

3 JUDGE GAYNOR: Okay. So please --

4 THE WITNESS: [Interpretation] In 2019, we are talking --

5 JUDGE GAYNOR: Yes.

6 THE WITNESS: [Interpretation] -- about this Court. Are we
7 talking about the Specialist Court?

8 JUDGE GAYNOR: Yes.

9 THE WITNESS: [Interpretation] Yes, 32 or 34 hours.

10 JUDGE GAYNOR: Mr. Tara, I want to understand which document
11 you're concerned about. Is it the 2019 interview, or is it the 2001
12 interview, or is it the 2000 interview?

13 THE WITNESS: [Interpretation] I am concerned about the interview
14 of 2019. The general description of events without my knowledge.

15 JUDGE GAYNOR: Mr. Tara --

16 THE WITNESS: [Interpretation] The summary of the investigators'
17 questions.

18 JUDGE GAYNOR: Mr. Tara, we have a 470-page transcript of that
19 interview, and we don't have time to go through 470 pages. So you're
20 going to have to help us understand exactly what the problem is in
21 very concise terms.

22 THE WITNESS: [Interpretation] The Prosecutor knows, because I
23 already asked for a copy of that document or to have the ERN number
24 of that document. My Prosecutor knows what I am talking about. She
25 knows very well. Or my interpreter, translator, who read half of it.

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1 As I said, I couldn't read it. Because I felt that I was being
2 described as a traitor of my country, of my compatriots, of all the
3 blood that was shed in Kosovo for its liberation. Do you understand,
4 sir? That document I have been asking for for so long. Otherwise, I
5 will not talk about anything. I don't trust this Court if you don't
6 show me that document.

7 JUDGE GAYNOR: Ms. Iodice.

8 MS. IODICE: Maybe we can make one last attempt to show the
9 UNMIK statement, and I'll read out from it.

10 Q. Mr. Tara, I know what document you are talking about. Let me
11 bring it up and read it out to you --

12 A. Not UNMIK.

13 Q. Mr. Tara --

14 A. Not a document of UNMIK. Don't try --

15 Q. Okay. That's fine. I will show you --

16 A. I am asking about a document that I have already asked -- the
17 document I asked you to give me a copy of --

18 Q. Yes.

19 A. -- not the UNMIK document. Then we can discuss the UNMIK and
20 any document you may have.

21 Q. Mr. Tara, I will show you the document that was read out to you
22 by the interpreter, half of it was read out to you by the
23 interpreter. I will read out a portion so that --

24 A. That document I mean.

25 Q. Good. Okay. Mr. Tara, please --

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1 A. Show it on the screen.

2 Q. Mr. Tara, please. We need to proceed with order.

3 MS. IODICE: SPOE00144632, and if we could please go to the
4 second half of the page. If we can scroll down.

5 Q. Mr. Tara, I will slowly read out to you this document, and you
6 can follow what I'm saying through interpretation.

7 "Tara admitted that UCK kidnapped civilians suspected to be
8 collaborators, no matter if they were Serbs, Romas or Albanians. It
9 was necessary to save the goal.

10 "Tara said that after brutal questionings, the suspects,
11 undressed and without papers, got killed and left on the spot of the
12 execution. Sometimes they burnt the bodies otherwise animals and
13 time contributed to destroy the evidence.

14 "He explained that the UCK had to kill them; in case of release,
15 or escape, the 'prisoner' would have been a physical evidence of what
16 UCK did."

17 Do you recall giving this statement?

18 A. This -- I am not asking for this document, Ms. Prosecutor.
19 Please show me that particular document. This is an UNMIK document.
20 I showed you about that.

21 PRESIDING JUDGE SMITH: She's merely asking you if you said
22 this, if you said what she read to you. Did you say that?

23 THE WITNESS: [Interpretation] No, never. This is something
24 written by a journalist that never met me. I want the document I
25 asked the Prosecutor to show it on the screen.

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1 PRESIDING JUDGE SMITH: Mr. Tara, I asked you, "Did you say
2 this," and you said no, you did not. That's your answer? You did
3 not say this; correct? Just answer "yes" or "no".

4 THE WITNESS: [Interpretation] This was said by Anna Vannozzi,
5 Your Honour.

6 PRESIDING JUDGE SMITH: Was it said -- was it said by you?
7 That's all I'm asking you.

8 THE WITNESS: [Interpretation] No. It was somebody else who said
9 that. I said I never had a meeting with Anna Vannozzi, never.

10 MR. ELLIS: Your Honours, if I may at this point, just trying to
11 assist, there is another version of this in the documents that were
12 annexed to the interview, and the version that I'm looking at has
13 some signatures at the top, and I'm wondering if -- signatures to
14 show that they were dealt with in 2019. I'm wondering if that could
15 be the confusion.

16 PRESIDING JUDGE SMITH: Well, I don't know, but it's the
17 Prosecution's place to go forward. Thank you for bringing that up,
18 but go ahead, Madam Prosecutor.

19 [Microphone not activated]. It's time for the morning break,
20 anyway. We'll take a half-hour break.

21 We'll give you a half-hour break, Witness, and we'll come back
22 to the courtroom at 11.30. Please leave the courtroom with the
23 usher.

24 No.

25 THE WITNESS: [Microphone not activated].

1 PRESIDING JUDGE SMITH: Your microphone is off now. Your
2 microphone is off.

3 THE WITNESS: [Microphone not activated].

4 [The witness stands down]

5 PRESIDING JUDGE SMITH: We're adjourned for a half hour.

6 --- Recess taken at 10.59 a.m.

7 --- On resuming at 11.31 a.m.

8 PRESIDING JUDGE SMITH: Before proceeding, the Panel will issue
9 an oral order on its reasons for ruling on the joint Defence
10 submissions on consecutive final briefs, which was filing F02911.

11 On 7 February 2025, the Defence requested that the time limit of
12 Rule 134(b) and paragraph 135 of the Order on Conduct be varied to
13 allow the parties to file successive briefs in order to protect the
14 fair and efficient conduct of proceedings.

15 The Defence submitted that the adversarial nature of these
16 proceedings requires that the briefs be filed consecutively. The
17 Defence further argued that what it says is the -- I'm sorry, I'll
18 say that again.

19 The Defence further argued that what it says is the obscurity
20 inherent to the SPO's case warrants the filing of sequential briefs.

21 On 14 February 2025, the SPO responded in filing F02936,
22 submitting that, consistent with the rules, the Order on the Conduct
23 of the Proceedings, and the relevant practice before this and other
24 courts, the parties' and participants' final trial briefs should be
25 filed simultaneously.

1 According to the SPO, the Defence misapprehends the purpose of
2 final trial briefs which is not to respond to other party's closing
3 brief, but to express a party's own position regarding the charges
4 set out in the indictment and the evidence led in the case.

5 On February 19, 2025, the Panel indicated that final trial
6 briefs shall be filed simultaneously.

7 The Panel hereby provides reasons for that ruling.

8 The Panel is of the view that the primary purpose of final trial
9 briefs is for each party to put forward its case in light of the
10 evidence on the record of proceedings. The Panel is not persuaded by
11 the Defence arguments in support of its request that final trial
12 briefs be submitted consecutively.

13 First, Rule 134(b) and (c) of the rules clearly provides for the
14 simultaneous filing of final trial briefs.

15 Secondly, the practice of other jurisdictions is of a limited
16 relevance here insofar as they have adopted both simultaneous and
17 successive briefs, depending on cases, and have applied a regime
18 different than the one applicable to the KSC. The Panel notes in
19 that regard that the practice of the Kosovo Specialist Chambers has
20 been and will continue to involve simultaneous filing of final trial
21 briefs consistent with Rule 134.

22 Contrary to the Defence's argument, the adversarial aspects of
23 the proceedings do not demand or justify successive briefs. Each
24 party, as well as the participants, will get a full and fair
25 opportunity to put their own case forward in their final briefs and,

1 if they choose to do so, to respond to the opposing side's arguments
2 in their final oral submissions.

3 The Defence's arguments regarding the supposed obscurity of the
4 SPO's case is no more convincing. The Defence knows the SPO's case
5 and will be able to address all relevant aspects of that case as it
6 chooses to do in its final trial briefs and final oral submissions.

7 For these reasons, the Panel orders that, consistent with
8 Rule 134 and the practice of this jurisdiction, final trial briefs
9 will be filed simultaneously.

10 The Panel further orders the Defence to request the
11 reclassification or submit a public redacted version of their
12 request, F02911, by Friday, 7 March 2025.

13 Finally, the Panel indicates that it will in due course set the
14 deadline for filing of final trial briefs and will provide
15 indications to the parties and participants regarding certain aspects
16 of the contents of these documents and the Panel's expectations in
17 relation to it.

18 This concludes the oral order.

19 Madam Court Usher, please bring the witness in.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: Can you hear me okay?

22 THE WITNESS: [Interpretation] Yes. Yes, Your Honour.

23 PRESIDING JUDGE SMITH: Madam Prosecutor.

24 MS. IODICE: Thank you, Your Honour.

25 Q. Mr. Tara, I would like to make one last attempt to show you a

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1 document to see if that's the document you're referring to.

2 MS. IODICE: So if we could please have ERN 083094 to ERN
3 083196. And if we could go to page 15 in the English and 17 in
4 Albanian of the PDF.

5 THE WITNESS: [Interpretation] No, Madam Prosecutor.

6 MS. IODICE:

7 Q. Mr. Tara --

8 A. That's not the document.

9 Q. Please, the document, it's not on the screen yet. I will tell
10 you once the document is on the screen. So please bear with us.

11 MS. IODICE: And if we could have page 17 side by side of the
12 same document. That's the Albanian.

13 Q. Mr. Tara, this document was shown to you during your interview
14 with the SPO in 2019, and you made some markings on it. Is this the
15 document that you were referring to?

16 A. No, Madam Prosecutor. You know exactly what document I'm
17 talking about. And your associates know, who were in the preparation
18 session, they know exactly what document I'm referring to.

19 PRESIDING JUDGE SMITH: Just answer the questions. You don't
20 need to comment on your thoughts about the question. Just answer the
21 question and we'll move on.

22 MS. IODICE: Can we scroll down maybe so that he can see the
23 whole document. If we can zoom out a little bit so he can -- he has
24 an overview of the page. Thank you.

25 THE WITNESS: [Interpretation] No, Madam Prosecutor.

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1 MS. IODICE: Your Honour, I also have the binder and paper copy
2 that was shown to him during the preparation session. If
3 Your Honours would like, I can hand it over to you and the Defence
4 for review if the witness would like to see a hard copy of the
5 statements he reviewed.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MS. IODICE: Yes. If -- the entire binder, both with the SPO
8 interview and 2001.

9 PRESIDING JUDGE SMITH: For what purpose are you going to show
10 the entire binder?

11 MS. IODICE: In case it refreshes his memory that's what he saw.
12 I can offer it, but I don't know --

13 PRESIDING JUDGE SMITH: [Microphone not activated] ... the
14 Prosecutor, you decide what you want to do.

15 MS. TAVAKOLI: Sorry, I wonder if before we go to that
16 discussion, if you could just show him all the pages of that
17 document, just to be sure, because I think this is just the first
18 page.

19 MS. IODICE: If we could move to the next page in Albanian. If
20 we could zoom out. Yes, thank you. If we could zoom out so that the
21 entire page is visible.

22 Q. Is this the document you're referring to?

23 A. No, Madam Prosecutor.

24 Q. I'll show you another page and I'll ask you the next question.

25 MS. IODICE: Could we go to the next page. If we could scroll

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1 down and go to the next page.

2 THE WITNESS: [Interpretation] No, Madam Prosecutor. That's not
3 the one.

4 MS. IODICE:

5 Q. Is this the document you're referring to?

6 A. No, Madam Prosecutor.

7 MS. IODICE: Thank you, Your Honour.

8 If we could please bring up first Part 4 of his SPO interview,
9 which is 083217-TR-ET. And if we could go to page -- Part 4 in
10 English. And if we could go to page 10 in English. Apologies, page
11 11. If you could go to the next page in English, please. Thank you.

12 Q. Mr. Tara, I will read out to you a portion of your prior
13 statement where you were shown a document. And here you're recorded
14 saying, starting at line 15 --

15 THE WITNESS: [Interpretation] Your Honours, Your Honour, I am
16 asking for the document, not my interview. I've read them; the parts
17 of the interview, that is. I want to see the document that was shown
18 to me --

19 PRESIDING JUDGE SMITH: Just wait for the question.

20 THE WITNESS: [Interpretation] -- and I would want the Prosecutor
21 to show that again.

22 PRESIDING JUDGE SMITH: Wait for the question, Witness.

23 MS. IODICE:

24 Q. I'd like to read to you a part of your prior statement recording
25 your answers about a document. You stated:

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1 "There was a meeting in a place where I had worked after the
2 war. I met with them two or three times, if we're talking about the
3 same case. If it's that case, that's when I recall ... anything
4 else. This was ... the Italian ... I don't know who was the
5 representative there, if we're talking about the same thing I can
6 remember."

7 And then the investigator says:

8 "No. This interview was conducted by Anna Vannozzi."

9 And you ask:

10 "A woman?"

11 "A woman."

12 And your answer is:

13 "I don't know."

14 "I don't recall meeting with any women ..."

15 And then you are asked:

16 "Do you recall meeting with any police investigators from UNMIK
17 in 2001?"

18 And answer is:

19 "I don't recall. I don't recall. I do recall that during the
20 time I was commander, I understood someone was an investigator, but I
21 didn't know -- he was somebody who was looking for -- I know -- I
22 know that there was a case while I was the commander of someone from
23 the OSCE who was looking for a former employee whose mother was
24 Albanian and whose father was Serb, who went missing in the
25 neighbourhood of the Serbs. But I don't recall meeting with any

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1 woman involved with any investigation.

2 "Do you recall being interviewed about -- in the case involving
3 a victim by the name of Tasim Halimi?"

4 And your answer is:

5 "For sure this is not the same ..."

6 "But do you agree that you met with UNMIK, this UNMIK officer
7 Anna Vannozzi in January of 2001 and gave her information?

8 "In which place?

9 "Well, I'm asking generally if you recall meeting with her, but
10 this document says the meeting took place," and then there's a
11 redaction.

12 "A hundred per cent no, although it is possible ... I may have
13 forgotten. This was not -- this wouldn't have been in the form of an
14 interview."

15 A. You know very well what document I'm asking for,
16 Madam Prosecutor. You know very well.

17 PRESIDING JUDGE SMITH: Your microphone is off again because
18 you're not answering the question. Just answer her question so we
19 can move on.

20 THE WITNESS: [Interpretation] I will not answer the question
21 until the document I'm asking for is shown.

22 PRESIDING JUDGE SMITH: Then don't --

23 THE WITNESS: [Interpretation] We can adjourn immediately. I
24 will not answer any question before seeing that document, because my
25 suspicion is that this Court is a --

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1 PRESIDING JUDGE SMITH: Your microphone is off again.

2 THE WITNESS: [Interpretation] -- corrupt court and --

3 [Microphone not activated].

4 PRESIDING JUDGE SMITH: You are out of order, Witness. Please
5 be quiet.

6 THE WITNESS: [No interpretation].

7 PRESIDING JUDGE SMITH: Please be quiet.

8 Go ahead.

9 MS. IODICE: Thank you, Your Honour. Your Honour, I have made
10 all attempts to show the witness the document. I will now proceed
11 with the questioning.

12 PRESIDING JUDGE SMITH: Go ahead.

13 MS. IODICE: Thank you.

14 Q. Mr. Tara, I would like to ask you a few questions about your
15 role in the Arti unit. What was your role in the Arti unit?

16 A. You know everything. I will not say anything anymore until I've
17 seen the document.

18 Q. Who appointed you to that position?

19 A. I will not answer until you have shown my document, which is
20 related to my safety, that of my relatives, and which describes as --
21 which is described by the investigators in 2019 as where I'm
22 described as a traitor. And I will not have any answers for you
23 until I've seen that document.

24 PRESIDING JUDGE SMITH: Go ahead, Madam Prosecutor.

25 MS. IODICE: Your Honour, could the Panel compel the witness to

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1 answer.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 Are you going to answer that question? Just yes or no.

4 THE WITNESS: [Interpretation] After I've seen the --

5 PRESIDING JUDGE SMITH: Just yes or no.

6 THE WITNESS: No. [Interpretation] No.

7 PRESIDING JUDGE SMITH: You understand you are ordered to answer
8 the question, and you could be in violation of this Court's rules if
9 you fail to answer the question, and you could be fined if you fail
10 to answer the question.

11 THE WITNESS: [Interpretation] Not only fined, but you can
12 even -- even if I get killed, I will not speak before having seen
13 that document. Even if I am to be killed, I will not speak --

14 PRESIDING JUDGE SMITH: Go ahead, Madam Prosecutor.

15 THE WITNESS: [Interpretation] -- until we have reviewed the
16 document in question.

17 MS. IODICE: Your Honour, I did not hear what you said.

18 PRESIDING JUDGE SMITH: I said you may go ahead.

19 MS. IODICE: Thank you.

20 Q. Mr. Tara, what were your main tasks in the Arti unit?

21 A. I have no answer.

22 MS. IODICE: Your Honour, we will be seeking to tender the prior
23 statements pursuant to Rule 143(c), 2(c), should the witness continue
24 not to answer the questions. This might be done in writing -- this
25 should be done in writing as portions should be selected, so I would

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1 like to submit it in writing after court.

2 PRESIDING JUDGE SMITH: That's your right. Are you finished
3 with your questions, then?

4 MS. IODICE: Yes, Your Honour. I don't believe that the witness
5 will answer.

6 PRESIDING JUDGE SMITH: Defence.

7 MR. DIXON: Your Honour, we're in a position where, first, our
8 submission is that not all avenues have been exhausted to get the
9 witness to answer questions. He hasn't been -- the matter hasn't
10 been explored with him in relation to contempt, and he hasn't been
11 held in contempt. So that's our first submission, that those steps
12 should be taken first before any further submissions are heard.

13 Our additional submissions would be about the inability to admit
14 these statements given that we would not have the opportunity, it
15 seems, to be able to cross-examine in respect of those matters, but
16 that's jumping the gun. Our primary submission would be every step
17 has to be taken to get the witness to testify before the Court so
18 that Your Honours have the benefit of that evidence, and we then, as
19 the Defence, are able to, on that basis, cross-examine the witness.

20 PRESIDING JUDGE SMITH: Anybody else? No?

21 [Trial Panel confers]

22 PRESIDING JUDGE SMITH: All right. The witness has been warned
23 by the Court. He's indicated he really didn't care and would refuse
24 to answer, and we do not see the need to go any further on contempt
25 at this time.

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1 We will give you the opportunity to ask questions or to try to
2 ask questions if you wish. And if you do not, we will adjourn and
3 await any further pleading or filing by the Prosecution.

4 MR. DIXON: Your Honour, my first submission would be that
5 proceeding with contempt and taking that step could produce results.
6 We're not in that realm yet, and that should be a first step taken.
7 So I'd reiterate that, would be my first submission.

8 PRESIDING JUDGE SMITH: This is in the discretion of the Panel,
9 and we choose not to because we do not think it would do any good.
10 The man is refusing to answer anything within reason, and so
11 therefore we will not hold him in contempt.

12 MR. DIXON: But, Your Honour --

13 PRESIDING JUDGE SMITH: That's all.

14 MR. DIXON: Okay. My second submission would then be that we
15 have to know before we make a decision about cross-examination what
16 material is going to be in evidence. We would say no further
17 material could be submitted in evidence. If that's the case, then I
18 would cross-examine on the basis -- or try to on the basis of what's
19 on the record. But I would have to know what material is in evidence
20 first, because there's a vast -- I mean, there are four, five days of
21 testimony. If that all comes in, then I would have to cross-examine
22 on that basis together with all of the other material as well,
23 including the UNMIK materials. So there would have to be a decision
24 made on that first before we decided whether to go ahead and on what
25 basis we would then cross-examine.

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1 Anything further? Yes, go ahead, Ms. Tavakoli.

2 MS. TAVAKOLI: I support Mr. Dixon's submissions that we should
3 first proceed to contempt. If Your Honour is not minded to do that,
4 I think we need to be crystal clear about what this witness's
5 evidence is. He's a live witness. The only evidence that the
6 Defence has heard is the evidence he's given since 9.30 -- 9.00 this
7 morning, and therefore the only evidence we could cross-examine on
8 would be what we've heard in the last three hours.

9 The Defence can't be in a situation where, after this witness is
10 finished testifying, Your Honours then admit all of his statements,
11 20-part interview, attendant exhibits, and we haven't been given the
12 opportunity to cross-examine him on them. And at the moment, we
13 cannot cross-examine him on them because they are not his evidence
14 and they are not in evidence.

15 Moving to any forthcoming motion by the Prosecution, the test in
16 143(c) is whether or not the witness has made a prior inconsistent
17 statement. My learned friend has read into the record what this
18 witness had said in relation to the UNMIK statement. It is
19 completely consistent. He has always said he never made that. In
20 terms of the rest of his evidence this morning, I personally haven't
21 seen any inconsistencies with what he's said in his SPO statement.
22 And, therefore, I do not think it can be right that the Prosecutor is
23 allowed to skip through his evidence in this manner and effectively
24 deny the Defence an opportunity to cross-examine the witness.

25 PRESIDING JUDGE SMITH: The Panel hasn't approved any skipping

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1 in this matter. We're waiting to see what is being suggested by the
2 Prosecution.

3 [Microphone not activated].

4 MR. ELLIS: Your Honour, I join the submissions that have
5 already been made. I just wanted to add two points.

6 The first is that we would say not every step has been taken to
7 this point because there is still the possibility of showing the
8 binder as was floated, I think, by the Prosecutor a few moments ago.

9 And the second is that I would ask for some time before any
10 further steps are taken just because we weren't anticipating this
11 coming to a head quite as quickly as it has. So before
12 cross-examination starts, if we continue following this path, I would
13 ask for some time.

14 MR. MAIR: Your Honour, just to support the objections that have
15 been made thus far. Thank you.

16 PRESIDING JUDGE SMITH: Does the Prosecution wish to reply?

17 MS. IODICE: Yes, Your Honour. Of course we would do the tender
18 before any cross-examination begins and --

19 PRESIDING JUDGE SMITH: When are we going to do that? This
20 witness is here now? Are you going to do that tomorrow or the next
21 day?

22 MS. IODICE: Your Honour, in the interest of efficiency, we
23 might -- if we can adjourn and have a short break, then I will have
24 all the quotes related --

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 You're going to go through the binder and some items, is that
2 what you're suggesting --

3 MS. IODICE: Yes.

4 PRESIDING JUDGE SMITH: -- but not the entire binder?

5 MS. IODICE: Yes. This would include -- just to be clear, this
6 would include the portions of the SPO interview that relate to the
7 matters notified pursuant to Rule 95 as well as the preparation note
8 and the 2001 statement.

9 [Trial Panel confers]

10 PRESIDING JUDGE SMITH: We'll give you a half hour to --- I
11 thought maybe that was what was going to happen in the last half
12 hour, but we'll give you another half hour to come up with what it is
13 you want to do and how to proceed so you can explain it to the
14 satisfaction of the Panel and to the Defence.

15 We will reconvene at 12.30. Please be prepared to proceed at
16 that time.

17 MR. DIXON: Your Honour, if I can say though, depending on what
18 comes, we will have to respond, and I'm not sure we're going to be in
19 a position to do that. We're in very novel territory here. And a
20 prep note coming in -- essentially a Prep Note 2 coming in, as far as
21 I know, I haven't been here the whole time, but it's never been done
22 before, so that's quite a step to take. So there may well be a need
23 for a lot more time to address these questions.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 We don't have a lot more time. We're going to have to deal with

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1 it today.

2 MR. DIXON: We do have the week, Your Honours, to ensure that
3 this is done properly and fairly.

4 PRESIDING JUDGE SMITH: Yes, sir. You're not involved in this
5 discussion. What do you want to say, quickly?

6 THE WITNESS: [Interpretation] One clarification. It's not that
7 I will not answer to this Court or Prosecution questions for anything
8 they ask. I will give answers, clear, concise, and straightforward,
9 but I ask first to see the document I am asking for. Then everything
10 will go smoothly and quickly.

11 I am not --

12 PRESIDING JUDGE SMITH: Your microphone's off again.

13 THE WITNESS: [Interpretation] -- saying that I will refuse to
14 testify. [Microphone not activated].

15 PRESIDING JUDGE SMITH: [Microphone not activated] ... you are
16 refusing to testify. You have been shown a variety of documents and
17 found some reason to not recognise any of them. And maybe that's
18 true, that's fine, that's your position, but you are refusing to
19 testify.

20 So we are going to adjourn now, and we will be back in a half
21 hour, and they will -- we will see if they intend to come up with a
22 different process.

23 So you may leave the courtroom in the company of the usher, and
24 we'll see you back here in a half hour.

25 THE WITNESS: [Interpretation] This is --

1 PRESIDING JUDGE SMITH: Your microphone is off. Your microphone
2 is off again.

3 THE WITNESS: [Interpretation] -- a maltreatment. You can do
4 whatever you want.

5 [The witness stands down]

6 PRESIDING JUDGE SMITH: We're adjourned until 12.30.

7 --- Break taken at 12.01 p.m.

8 --- On resuming at 12.31 p.m.

9 PRESIDING JUDGE SMITH: We will do this out of the presence of
10 the witness at the present time.

11 Madam Prosecutor, have you identified an item or items that you
12 intend to tender?

13 MS. IODICE: Yes, Your Honour. Before we get to that, I would
14 like to try one last attempt to show the witness the document that he
15 says we showed to him by bringing him to the words that he said in
16 court today and the words that were recorded in the preparation note,
17 and the ERN recorded on the preparation note and the ERN recorded on
18 the statement, and then show him the physical binder. And I'd be
19 ready -- if that still does not yield any result, then --

20 PRESIDING JUDGE SMITH: We will give you that opportunity. If
21 it does not produce any results, we will excuse him for a few
22 minutes. We then will discuss the balance, the thing that you
23 brought up, Mr. Dixon, and the rest of you did.

24 So we'll start with bringing him back in. You may try one last
25 time.

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Examination by Ms. Iodice

1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: Can you hear all right, Witness?

3 THE WITNESS: [Interpretation] Yes, Your Honour.

4 PRESIDING JUDGE SMITH: Madam Prosecutor, you have the floor.

5 MS. IODICE: Thank you, Your Honour.

6 Q. Mr. Tara, as the Presiding Judge noted earlier today, it's very
7 important that we hear your evidence here today, so I want to try and
8 make another attempt at showing you the document that you've been
9 asking for. And to do so, I'll use your own description of the
10 document that you have done -- as you have described it this morning,
11 so please listen carefully to what I'm saying.

12 This morning when you first asked for this document, you said:

13 "If that moment about which I raised my concerns, which
14 endangered my life and that of my relatives, in which I was described
15 as a traitor to my nation, as a traitor to the KLA, as a traitor to
16 the martyrs of my nation, and all those slaughtered civilians and
17 deported from the country, before clearing the name of
18 Commander Hoxha, with respect to that document, I will not give any
19 further statement."

20 And do you recall telling me exactly those words during the prep
21 note, when I showed you that document? And please just answer "yes"
22 or "no."

23 A. Yes, Madam Prosecutor.

24 MS. IODICE: Could we please bring up 125903, and go to page 21
25 of the PDF.

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1 Q. Your answer -- do you recall that your answers that you gave to
2 us during the preparation were written down and read back to you?

3 Mr. Tara --

4 A. Will you show me the document, or it's about another document?

5 Q. No, we are talking about the same thing. Please follow me for
6 now. Okay? Just listen to what I have to say. Do you remember that
7 when we talked during the preparation session, we wrote down what you
8 said and we read back to you what you had said?

9 MS. IODICE: Could we scroll down to paragraph 119, please.

10 THE WITNESS: [Interpretation] Please show it in Albanian.

11 MS. IODICE:

12 Q. Mr. Tara, just please follow me for now. During the preparation
13 session, as it's recorded here, you said to me, when I showed you
14 that document -- and the code of that document is recorded here,
15 that's what I'm interested in you noticing. You said:

16 "[The witness] read the document and indicated that its contents
17 are not true. If this statement is made public, it would be
18 dangerous for him and he would be killed by someone in his community.
19 The document 'describes me as a traitor of my nation, a traitor of
20 the martyrs and heroes of the KLA', as well as a 'traitor of the
21 murdered civilians and their families.' [The witness] pleads that
22 there be no leak of this document."

23 Do you remember that this is the document -- that you were
24 describing that document when you told me these words? That these
25 are --

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1 A. Yes, according to what you are putting to me. We are talking
2 about the same document.

3 Q. Okay.

4 A. But I didn't ask not to be public, but that we discuss this
5 document in the session before everything else.

6 Q. Okay. Now, there is a code for that document at the -- next to
7 the number 119, there is a code for that document that we were
8 discussing.

9 MS. IODICE: So I'm going to ask the Court Officer to keep this
10 on one side of the page, and bring up SPOE00144632 on the other side
11 of the page.

12 THE INTERPRETER: Could the witness be asked to speak closer to
13 the mic, please.

14 THE COURT OFFICER: Would you wish to have a document in English
15 or in Albanian?

16 MS. IODICE: In Albanian, please. Now, if we can scroll down.
17 Thank you.

18 Sorry, the English version, please -- no, no, no. Apologies.
19 That's fine. Sorry, apologies. Yes.

20 Q. Now, do you see that number at the very bottom of this document?

21 A. It's not the document I'm asking for.

22 MS. IODICE: Okay. We can take this down.

23 Your Honour, at this time I'll show him the physical binder.

24 PRESIDING JUDGE SMITH: Granted.

25 MS. IODICE:

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Examination by Ms. Iodice

1 Q. Mr. Tara, this is the hard copy documents that you read during
2 the preparation session. Can you please look at the first document
3 in that binder and tell us if that's the document you're referring
4 to?

5 A. No, Madam Prosecutor.

6 Q. Okay.

7 MS. IODICE: Thank you.

8 Q. Mr. Tara, do you still maintain that you will not answer my
9 questions?

10 A. Until you show me the document, and I know that you know what
11 I'm talking about, my answer is no, I won't, even if you sentence me
12 for life.

13 Q. Thank you.

14 MS. IODICE: Your Honour, at this stage I would like to tender
15 the witness's prior statements into evidence, and that is --

16 PRESIDING JUDGE SMITH: Let's stop just for a moment --

17 MS. IODICE: Yes.

18 PRESIDING JUDGE SMITH: -- here. We'll excuse the witness.

19 MR. DIXON: Your Honour, if I may, in the spirit of exhausting
20 all steps, what I would ask is that the witness be warned --

21 PRESIDING JUDGE SMITH: Just -- just --

22 MR. DIXON: -- again and sanctions --

23 PRESIDING JUDGE SMITH: Please --

24 MR. DIXON: -- as an option --

25 PRESIDING JUDGE SMITH: Please --

1 MR. DIXON: -- so that he knows the consequences.

2 PRESIDING JUDGE SMITH: Mr. Dixon, please be seated. I'm not
3 finished speaking.

4 MR. DIXON: Thank you.

5 PRESIDING JUDGE SMITH: The witness will be excused from the
6 room, please.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: If there is a tender, it should be very
9 selective in nature. It seems that there is one document that seems
10 to be of singular importance. We would suggest a very limited
11 tender, bringing up matters or documents that are essential. I don't
12 want 544 pages entered in this. It's not fair to anybody at this
13 stage of the proceedings.

14 The Defence should assume for purposes of a cross-examination
15 that the items would be admitted, could be admitted, but we will not
16 rule on them until the close of cross-examination and re-examination,
17 if exercised.

18 [Microphone not activated].

19 MR. DIXON: Yes, Your Honours, two points. The first, having
20 taken instructions from my client as well, I would renew my request
21 for all steps to be taken. We haven't asked this witness what
22 document it is that he's referring to. But more importantly, there
23 are steps in the rules for the witness to be warned. And without
24 that taking place, we don't know what the response of the person
25 would be.

1 PRESIDING JUDGE SMITH: The witness was warned.

2 MR. DIXON: And being in a prison cell might well change his
3 perspective. That's the whole point of going through it step by step
4 in contempt proceedings.

5 PRESIDING JUDGE SMITH: I know that's your request, but that's
6 not going to happen. Now what else?

7 MR. DIXON: So that's the first request for proper contempt
8 proceedings.

9 The second is that we will need to respond to whatever
10 application is made. As I said before, these are very new matters to
11 arise, and we will want to know, before we start cross-examination,
12 if we do, what the outcome is. So we will ask for that time, plus
13 also time to consider cross-examination as a whole in these
14 particular circumstances.

15 PRESIDING JUDGE SMITH: The cross-examination as a whole was
16 going to happen no matter what happened in this. You knew what the
17 statement was ahead of time, and you knew that it could involve any
18 of it. So that's not a very good argument. But we will give you
19 some time, if necessary, but it won't be very much.

20 Could I please --

21 MS. TAVAKOLI: Your Honour, sorry. If I just may --

22 PRESIDING JUDGE SMITH: Oh, I'm sorry, Ms. Tavakoli. I didn't
23 mean to cut you off.

24 MS. TAVAKOLI: Just to make an objection for the record, for the
25 purposes of the record, because I've heard what Your Honour has said.

1 We reiterate Mr. Dixon's invitation to Your Honours to hold this
2 witness in contempt. You have warned him. You have issued an order
3 that he speaks. You have warned him that you may order a fine.
4 However, we would invite you to exercise your discretion to hold him
5 in contempt. Otherwise, it sends a message that witnesses can simply
6 come to this Court, choose not to give evidence, and there will be no
7 consequence.

8 If we now go down the path that this witness's statements -- I
9 hear Your Honour has requested the Prosecution be selective in what
10 it tenders. But if we go down this path, under Rule 42(8) of the
11 Law, it does say that you should do -- must compel the witness to
12 testify. If you don't use the tools available, then the right of the
13 accused to confront the witnesses under Article 21 of the Law will be
14 violated.

15 To the point I raised earlier, we don't know what is in
16 evidence, and, therefore, we cannot cross-examine until we know what
17 is in evidence. And at the moment, the only thing that we know is in
18 evidence is what he said in the last two hours.

19 PRESIDING JUDGE SMITH: Well, the purpose of my preamble is
20 we're going to try to find out what's going to be tendered at least.

21 [Microphone not activated].

22 MR. ELLIS: We'd join the objections, Your Honour.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

24 So you understand our position. What is your -- are you ready
25 to identify those areas you wish to tender?

1 MS. IODICE: Yes, Your Honour. We would like -- I cannot
2 provide the exact page references now. We are proposing to redact
3 parts of the SPO interview that relate to an incident in 2019 where
4 the witness met with Driton Lajci, but we would like to tender the
5 remaining part that relates to his knowledge of the KLA units in
6 1998, the offensive --

7 PRESIDING JUDGE SMITH: I need a little more information than
8 that. If you're going to tender a particular portion, we need to
9 know what portion it's going to be.

10 MS. IODICE: Yes, Your Honour. Unfortunately, these topics are
11 intertwined throughout the 20 parts of the statements which is why I
12 cannot exactly identify immediately which portions. But the topic
13 related to the meeting with Mr. Thaci and later with Driton Lajci
14 would be redacted. The rest we propose to tender into evidence.

15 PRESIDING JUDGE SMITH: [Microphone not activated] ... the rest
16 of the 544 --

17 MS. IODICE: Yes --

18 PRESIDING JUDGE SMITH: -- pages.

19 MS. IODICE: -- Your Honour, together with the preparation note
20 and the UNMIK statement, as well as the associated exhibits discussed
21 in the preparation note.

22 PRESIDING JUDGE SMITH: That's not very selective. There's a
23 lot of material in there that is not essential to your case.

24 MS. IODICE: That's noted, Your Honour. We can reduce that to
25 two exhibits --

1 PRESIDING JUDGE SMITH: Well, now is the time, Ms. Iodice.

2 MS. IODICE: We can reduce that to two exhibits, meaning the
3 sketch that the witness drew himself that's attached to Preparation
4 Note 2, which is an aid to understanding what he's discussing in his
5 evidence, and the documents addressed in paragraphs 135 and 137.
6 That's ERN 024397 and ERN SITF00441811.

7 Your Honour, I'd also like to note for the record that the
8 witness this morning indicated that he stands by his answers of 2019,
9 and that's at page 32, lines 21 to 23, and that these statements bear
10 all the indicia and authenticity of reliability as they are all
11 verbatim transcripts of the interview.

12 JUDGE GAYNOR: Can I just ask a question for clarity.

13 First of all, Mr. Dixon and yourself have referred to
14 Preparation Note 2. My understanding is there is only one
15 preparation note; is that correct?

16 MS. IODICE: Yes, Your Honour. As it's a live witness, it's
17 only called preparation note.

18 JUDGE GAYNOR: Secondly, you said: "We can reduce that to two
19 exhibits ..."

20 Do I understand you to mean that the sketch and the other items
21 you've just identified are what you propose not to tender?

22 MS. IODICE: No, those are what I propose to tender.

23 JUDGE GAYNOR: And so the 2001 and 2000 statements you would not
24 tender?

25 MS. IODICE: Sorry, as associated exhibits. The sketch and

1 those two documents would be associated exhibits to the preparation
2 note which we would be tendering as well as the SPO interview, which
3 would be redacted up to -- to expunge the -- the [Overlapping
4 speakers] ...

5 JUDGE GAYNOR: So it's not much of a reduction in essence, is
6 it?

7 MS. IODICE: There are extensive discussions about the 2019
8 meeting in the SPO interview that makes up for a significant part of
9 the statement.

10 JUDGE GAYNOR: Thank you.

11 MR. DIXON: Your Honour, I think what is most important is to
12 know the legal basis upon which this is being done because the
13 Prosecution didn't use 154. The witness was due to come live. They
14 made their choice. And if they're looking to go under Rule 143,
15 well, what is the basis? If the Prosecution is saying he's adopted
16 his 2019 statement, I mean, that's not inconsistent, then, or it's
17 not something he's forgotten, so how does it come in under 143?

18 I mean, they should have done it under 154. They had the choice
19 to do that. But now we're in a situation where the live evidence
20 hasn't been given, and there shouldn't be a back door to allow this
21 evidence in. That's why we want an opportunity to respond to this in
22 full, including a preparation note. I didn't mean to say there was
23 Preparation Note 2, but this is the equivalent of that. It's all new
24 information in the sense that the witness hasn't adopted it. It
25 really comes from a summary of an interview with the Prosecutor

1 opposite me who's recorded that. He hasn't then signed that. How
2 does that come in as a statement?

3 That's why I was saying it's a first-time issue, as I understand
4 it, that's going to have to be decided.

5 MS. IODICE: Yes, Your Honour. Just to make the record very
6 clear, we are seeking to tender the SPO interview, which is ERN
7 083217-TR, the 20 parts, appropriately redacted to take out the
8 references to the issue of the 2019 meeting; the preparation note,
9 and that is ERN 125903; three associated exhibits to the preparation
10 note.

11 This, as indicated prior earlier today, this is being tendered
12 pursuant to Rule 143(2)(b), (c), and which specifically foresees this
13 kind of tender when a witness is not making a genuine attempt to give
14 evidence. The admission of a statement of a witness who refuses to
15 testify on the basis of the combined reading of Rule 143(2)(b), (c),
16 and is also consistent with paragraph 107 of the Order on Conduct of
17 Proceedings, and decision F01821, where the Chamber held that the
18 statement of a witness who refuses to testify were -- if the
19 statement of a witness who refuses to testify were inadmissible, this
20 would undermine the rights of victims to access justice.

21 Thank you.

22 MS. TAVAKOLI: Sorry, Your Honour, if I may. Just one more
23 point.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 No problem. Go ahead.

1 MS. TAVAKOLI: If we wind up in a situation where the Prosecutor
2 gets their evidence admitted, and then the witness refuses to testify
3 and answer our questions, we're going to be in a situation where we
4 don't have a right to cross-examine. So a lot of this depends on
5 what the witness will do under cross-examination.

6 PRESIDING JUDGE SMITH: Understood.

7 MR. ELLIS: Your Honour --

8 PRESIDING JUDGE SMITH: We want to step aside for a few minutes.
9 Please -- oh, I'm sorry, Mr. Ellis.

10 MS. IODICE: Your Honour, I'm sorry, I misspoke. I intend to
11 also tender the 2001 UNMIK statement. I'm sorry, that wasn't -- I
12 didn't mention it in the list.

13 PRESIDING JUDGE SMITH: Thank you.

14 MR. ELLIS: And that's what I was rising to address,
15 Your Honours. We would want, in particular, to know clearly what the
16 legal basis for the tender of that document is in circumstances where
17 the witness has gone further, I think, than any prior witness where
18 Rule 143 may have been engaged, in that, as I understood the evidence
19 this morning, he was saying that's not his, he didn't say that. It's
20 certainly not signed by him. So on what basis is that then being put
21 in?

22 PRESIDING JUDGE SMITH: Thank you. We will step aside.

23 --- Break taken at 12.55 p.m.

24 --- On resuming at 1.08 p.m.

25 PRESIDING JUDGE SMITH: Out of the presence of the witness, we

1 will direct the Prosecution to make their tender today.

2 Cross-examination will commence at 2.30.

3 As I stated earlier, we will withhold any ruling on requested
4 admission, bearing in mind that there may be a good portion of what
5 you tender not admitted because of being not especially relevant or
6 especially necessary in this case. You should consider the fact that
7 we would - we could - be admitting all of the matters that are
8 tendered, certainly no statement that we're going to, and we will
9 make the admission ruling at the end. That will be our ruling.

10 You may make the tender now if you wish to.

11 MS. IODICE: Your Honour, I need time to specify the pages and
12 lines.

13 PRESIDING JUDGE SMITH: How much time?

14 MS. IODICE: If I can do that when we resume at 2.30.

15 PRESIDING JUDGE SMITH: All right. Well, we'll do you a favour.
16 We'll wait until tomorrow morning to start cross-examination so you
17 have some time. You've had these 744 pages for some time. I read
18 them a long time ago, so I assume that you have too. So you can
19 certainly cross-examine as though all of it were admitted, whether it
20 is or not.

21 MS. TAVAKOLI: Your Honour.

22 PRESIDING JUDGE SMITH: Yes, Ms. Tavakoli.

23 MS. TAVAKOLI: If I can just confirm, my agreement with the
24 Prosecutor is that the tender will exclude all the evidence about the
25 meeting at Sylejman Selimi's house; subsequent conversations with

1 Driton Lajci; and this witness's interaction with the ambassador, the
2 Kosovan ambassador when he came to The Hague. So we've agreed that
3 that will all be excluded.

4 PRESIDING JUDGE SMITH: Correct?

5 MS. IODICE: Yes, Your Honour.

6 PRESIDING JUDGE SMITH: Yes, thank you.

7 Anything else?

8 MR. DIXON: Yes. And I am grateful for the time. My only
9 point, Your Honour, is that without knowing what is in evidence, yes,
10 we can proceed. But conducting theoretical cross-examination about
11 hypothetical topics that might not in evidence, how do we deal with
12 that after the fact?

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 They could be admitted. They may not be admitted.

15 MR. DIXON: Yes, but then we have cross-examination on the
16 record of material that might not be admitted.

17 PRESIDING JUDGE SMITH: Possible.

18 MR. DIXON: So my request remains for a ruling on what is
19 admissible before we start cross-examination. But I'm in any event
20 grateful for the time to at least be able to know from what --

21 PRESIDING JUDGE SMITH: Yeah.

22 MR. DIXON: -- the Prosecution says to then adjust things for
23 starting tomorrow morning.

24 PRESIDING JUDGE SMITH: I was withholding ruling until
25 afterwards as a benefit to the Defence, but you're saying you don't

1 want us to withhold ruling on it?

2 MR. DIXON: Your Honour, what I wish to know is, following our
3 response, because the Prosecution have to make their tender, we would
4 want an opportunity to respond --

5 PRESIDING JUDGE SMITH: Yeah.

6 MR. DIXON: -- and then for a ruling before we commence our
7 cross-examination. Yes.

8 PRESIDING JUDGE SMITH: We'll consider that. We'll consider
9 that.

10 MR. DIXON: I'm grateful, Your Honours. Thank you.

11 PRESIDING JUDGE SMITH: So we will be adjourned until 2.30, at
12 which time the Prosecutor --

13 MS. IODICE: I'm very sorry, Your Honour. There is one last
14 matter related to --

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MS. IODICE: Yes.

17 PRESIDING JUDGE SMITH: We'll be adjourned until 2.30, at which
18 time Prosecution will make their statement of what they tender.

19 Now, what is it?

20 MS. IODICE: Yes, Your Honour. If we could solve the matter
21 regarding W02677 now, that would save us from unnecessary travel.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. IODICE: We agreed with the Defence to have the witness's
24 evidence admitted pursuant to Rule 153.

25 PRESIDING JUDGE SMITH: There was no objection, was there?

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1 MR. TULLY: No. We reached out to the Prosecution on Thursday,
2 I believe, and they responded on Friday, and we agreed between us
3 that it would include simply his statements and none of -- well, the
4 associated exhibits already tendered into evidence. Thank you.

5 PRESIDING JUDGE SMITH: There's no problem with that with the
6 Panel, and it is hereby ordered.

7 MS. IODICE: Thank you, Your Honour.

8 PRESIDING JUDGE SMITH: So we will be back here at 2.30. We're
9 adjourned until then.

10 --- Luncheon recess taken at 1.13 p.m.

11 --- On resuming at 2.29 p.m.

12 PRESIDING JUDGE SMITH: Please bring the witness in,
13 Madam Usher.

14 [The witness takes the stand]

15 PRESIDING JUDGE SMITH: All right. Mr. Tara, can you hear?

16 THE WITNESS: [Interpretation] Yes. Yes, Your Honour.

17 PRESIDING JUDGE SMITH: Madam Prosecutor, you may make your
18 tender.

19 MS. IODICE: Yes, Your Honour. At this stage, we would like to
20 tender ERN 083217-TR-ET Part 1 Revised, page 1, line 1, to page 15,
21 line 9; and page 48, lines 9 to 10.

22 Part 2 Revised, page 1, lines 1 to 17; page 2, line 6, to page
23 8, line 21; page 9, line 4, to page 20, line 24.

24 Part 3 Revised, the whole part. It's a total of seven pages.

25 Part 4 Revised, the whole part. It's a total of 34 pages.

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1 Part 5 Revised will not be submitted.

2 Part 6 also will not be submitted.

3 Of Part 7, we would like to tender the entire part.

4 Part 8, we'd like to tender the entire part.

5 Part 9, we'd like to tender page 1, line 1, to page 7, line 6.

6 Part 10, we'd like to tender page 1, line 1, to page 2, line 18;

7 and page 9, line 10, to page 37, line 9.

8 Part 11 in as a whole part.

9 Part 12, we'll tender the whole part.

10 Part 13, we'll be tendering from page 1, lines 1-11; and page 7,
11 line 21, to page 11, line 21.

12 We do not seek to tender Part 14.

13 Of Part 15, we'd like to tender page 1, line 1, to page 19, line
14 20; and page 20, line 2, to page 23, line 24.

15 Page [sic] 16, we'd like to tender the whole part.

16 Page 17, we'd like to tender page 1, line 1, to page 8 -- sorry,
17 page 1, line 1 to 8; and page 8, line 11, to page 19, line 19.

18 Part 18, we'd like to tender the whole part.

19 Part 19, we'd like to tender page 1, line 1, to page 21, line
20 20; page 22, line 23, to page 23, line 2; and page 28, lines 7 to 9.

21 Of Part 20, we'd like to tender page 1, line 1 to 21; and page
22 6, line 17, to page 7, line 6; and page 9, line 7, to page 16, line
23 15.

24 Then we'd like to tender the preparation note, which is ERN
25 125903 to 125933, and three associated exhibits. One is ERN 125932

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1 to 125933, and the second is 024397 to 024399, and the ERN
2 SITF00441811 to 00441812.

3 We'd also like to tender the UNMIK statement that is ERN
4 SPOE00144632 to 00144633 RED and the Albanian translation.

5 And, Your Honour, if I may make brief submissions about these
6 three documents.

7 PRESIDING JUDGE SMITH: Yes, go ahead.

8 MS. IODICE: For the SPO interview, we have limited the portions
9 tendered to those which concern KLA units and members active and
10 operating in and around Malisheve, Drenoc, Rahovec, in summer 1998
11 and summer 1999. The limited portions tendered likewise relate to
12 crimes allegedly committed by certain KLA members in these locations
13 in summer 1998 and summer 1999 as charged in the indictment.
14 Finally, certain parts of the tendered statements relate to the
15 witness's rights during the SPO interview as well as prior statements
16 given and his explanation thereof.

17 The 2001 UNMIK statement is discussed at length in the SPO
18 interview and was commented on by the witness, who confirmed certain
19 parts and used contents of the interview to provide additional
20 evidence related to his role in the KLA and activities related to
21 locations, units, members, and victims included in the indictment.
22 While the witness denies the underlying interview, it is *prima facie*
23 authentic, being recorded on an official template indicating the
24 issuing authority, those present during the interview, and being
25 signed by the statement taker.

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1 And, finally, with regards to the preparation note, which
2 discusses, clarifies, and corrects his prior statements, it is
3 relevant for the same reasons. Those parts of the preparation note
4 pertaining documents transparently set out the witness's comments on
5 various documents which are relevant to the Panel's assessment
6 thereof. Some of them have been admitted already while others have
7 been tendered. Thus, the witness's comments on those documents will
8 ultimately assist the Panel in its truth-seeking functions. Other
9 parts relate to the witness's credibility or circumstances of the
10 preparation session and his approach to his testimony.

11 The preparation note should therefore be admitted in full.

12 Thank you, Your Honours.

13 PRESIDING JUDGE SMITH: Yes, Ms. Tavakoli.

14 MS. TAVAKOLI: I was just seeking to inquire of my learned
15 friend whether or not she is minded to redact paragraphs 10 and 142
16 of the preparation note because they relate to the other paragraphs
17 in the witness statement that she's agreed to take out. So for
18 consistency, I think they should also come out.

19 MS. IODICE: Yes, Your Honour.

20 PRESIDING JUDGE SMITH: They will be omitted from the tender.
21 All right.

22 Do you wish to make record now or do you want to do that in the
23 morning?

24 MR. DIXON: Your Honours, we would request to do so in the
25 morning because we have to go through each of these particular

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1 references now. So we can do it in the morning and it can be done
2 orally, and then take it step by step from there.

3 PRESIDING JUDGE SMITH: Thank you very much.

4 Everybody agree to that?

5 MR. DIXON: Thank you, Your Honours.

6 PRESIDING JUDGE SMITH: Ms. Tavakoli.

7 MS. TAVAKOLI: Thank you. And I've spoken to my learned friend
8 already, but, please, could we also have permission to release our
9 queue first thing in the morning once we've gone through all the
10 documents? I understand there is no objection from the Prosecutor.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MS. IODICE: No, Your Honour.

13 PRESIDING JUDGE SMITH: Each of you can release your queue in
14 the morning if you have one.

15 [Microphone not activated].

16 Witness, that is all for today. You will be excused now. You
17 will have to be back here tomorrow at 9.00. At that time, we will
18 have cross-examination questions from the Defence.

19 Yes?

20 THE WITNESS: [Interpretation] I have only one request. I have a
21 solution for this process so that we can proceed in a normal and
22 proper way as it was the case when we started. For that, I would
23 need ten minutes to explain my concern, my fear, and why am I
24 frustrated. I would like to be given the opportunity to inform the
25 people in this court hearing about everything, that if that document

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1 that I asked for were to be shown to me, which I asked from the
2 Prosecution, I would then answer all the questions asked to me.

3 But I would -- before that --

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 THE WITNESS: [Interpretation] -- I would need space to explain
6 and convey my fear and my concerns regarding that document and what
7 it can potentially convey.

8 PRESIDING JUDGE SMITH: Mr. Witness, we heard you this morning.
9 We understand what your position is. You refuse to answer questions.
10 We are proceeding in a different way. So your request is denied.

11 We will see you tomorrow morning at 9.00. Cross-examination by
12 the Defence counsel will occur beginning sometime around 9.00.

13 You may leave the courtroom now.

14 THE WITNESS: [Interpretation] That's fine. However, even
15 tomorrow I will not speak unless I'm given the opportunity to raise
16 my concerns in relation to the document I referred to.

17 PRESIDING JUDGE SMITH: Witness, we told you --

18 THE WITNESS: [No interpretation].

19 PRESIDING JUDGE SMITH: We told you at the very beginning --

20 THE WITNESS: Okay.

21 PRESIDING JUDGE SMITH: Put your ears back on. We told you at
22 the beginning you would be given ample time at the end of your
23 testimony to make your statement. You chose not to do that. That's
24 your choice. So we will go forward. That's all.

25 THE WITNESS: [Interpretation] I only need ten minutes,

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1 Your Honour --

2 PRESIDING JUDGE SMITH: You've had more than enough time this
3 morning. That's all that we're going to do today. Thank you very
4 much. Please leave the room.

5 THE WITNESS: Okay. Okay. Okay. [Interpretation] And
6 tomorrow, I'm asking for a lawyer to represent me and to whom I can
7 convey my concerns if you want me to continue. But, again, before we
8 start answering any questions, I would need ten minutes to explain
9 myself, and then I will answer all the questions.

10 PRESIDING JUDGE SMITH: Unfortunately, you told us that you
11 needed one thing this morning and after having it you would answer
12 questions, but you did not. So please leave the courtroom now.
13 We're finished with you today.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: We will advise the Registry of his
16 request for an attorney and that will be supplied, I'm sure.

17 So we will be adjourned until tomorrow morning at 9.00 a.m.

18 --- Whereupon the hearing adjourned at 2.43 p.m.

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